East of England Local Government Association | Talent Bank

Income Generation for Councils in the East of England

Report By:
Colin Taylor and Dave Fergus
EELGA Talent Bank Associates

October 2022

Improving the East

1. Executive Summary

1.1 The East of England Local Government Association (EELGA) represents 50 member councils, providing a range of policy and advisory services designed to support councils as they seek to be the best that they can be for their people, places and communities. EELGA has played an important part in the commercial journey of many of its members.

1.2 EELGA member councils recognise that central and local government are on a shared pathway. Our members are exploring how the cost of the 'State' can be prudently managed, whilst also sharing the Government's commitment to key policy objectives such as increased localism, levelling up, social outcomes and economic growth.

1.3 Covid-19 and the experience of mid-2022 (including the invasion of Ukraine and the exponential rise in wholesale fuel costs) has demonstrated how rapidly cost of living pressures can translate into increasing demand for locally delivered services. Furthermore, councils are being asked to respond to an increasing range of new obligations such as the national resources and waste strategy and enhancements to building safety.

1.4 Local government has responded with resilience, innovation and a large dose of sheer hard graft. The sector has continued to focus on delivering joined-up, efficient and effective public services, mostly achieved through improving efficiency, organisational transformation, collaboration and exploring alternative delivery models.

1.5 To protect core services, councils have increasingly pursued commercial income development, but there is much that points to an increase in restrictions on such activities. The plea from EELGA member councils is "please stop moving the goalposts."

Commercial Responses

1.6 As councils attempt to square the circle of increasing demand and reductions in central funding, a wide variety of 'commercial' responses have emerged across the sector to generate contributory income including commercial property investment and trading services.

Current Challenges

1.7 **Economic Environment**

As councils address the additional financial impact of COVID recovery including loss of income, most are experiencing significant pressure on local services. In recent months, rapidly rising inflation has become a further aggravating factor.

1.8 **Fragmented Grant Funding**

The funding landscape for local authorities is becoming ever more complex, with a proliferation in the number of smaller grants which are typically specific, short-term and often accessed competitively. The majority of EELGA's members believe that a more rational approach to core funding would issue would facilitate a shift towards the prevention of crises rather than simply managing them and ensure better value is derived from scarce public resources.

1.9 **Access To Capital Funding**
The Public Works Loan Board ('PWLB') provides loans to local authorities. In November 2020, following consultation with the sector, new guidance was issued on borrowing terms. In many quarters, these changes were regarded as a 'sledgehammer to crack a nut' given that most authorities were using the PWLB responsibly.

1.10 **Learning Lessons**
Recent Public Interest Reports at Nottingham City Authority, London Borough of Croydon and Northampton Borough Authority have identified in-common issues in those authorities that need to be taken on-board as learning lessons by the sector.

Responding to the Challenge

1.11 **Embedding Best Practice**
Local authorities need to operate to best commercial practice whilst retaining a sense of social purpose. This starts with clarity in respect of the commercial strategy being adopted and resolving any tension between profit generation and delivering social value. Many councils have shown that focussed commercial activity can enhance social value, support local infrastructure development and economic regeneration, and generate a financial return. Ensuring robust commercial governance, oversight and performance management is also a key priority in terms of demonstrating peer learning.

1.12 **Practical Challenges**
Management resources are scarce in many authorities, yet it is critical that adequate expert resource is consistently deployed to ensure that commercial activities are effectively managed and expected, and financial aspirations delivered. This typically requires a medium to long term approach that can conflict with the shorter-term perspective of the electoral cycle.

1.13 **A Future Vision**
Central and local government need to work together - EELGA believes that a re-invigorated and re-energised partnership between local and central government based on agreed 'ground rules' for commercial activity is key. To help deliver this vision, EELGA suggests that all partners consider these practical steps.

i. The sector requires a more stable funding solution (3 - 5 years).
ii. A more nuanced approach to monitoring and assessing local authority trading activities.
iii. PWLB rules and Prudential Code to be revised to reflect refined this approach.
iv. Greater incentives for projects that support local economic regeneration.
v. The UK Municipal Bonds Agency should be turbo-charged.
vi. Support for councils that recognise and invest in Community Wealth Building.
vii. Central and local government should jointly revisit the General Power of Competence.

1.14 **What Councils Can Do**
In tandem, these are actions that councils can pursue on a regional/local basis, including:

i. Clarity of purpose and expectations for commercial performance.
ii. Robust commercial business planning and oversight.
iii. Focus on performance measures and management.
iv. Developing internal capacity and capability.
v. Greater peer-to-peer co-operation and collaboration including sharing more information about what works.

Income Generation for Councils in the East of England

2. Introduction

2.1 The East of England Local Government Association (EELGA) represents 50 member councils, providing a range of policy and advisory services designed to support councils as they seek to be the best that they can be for their people, places and communities.

2.2 EELGA has played an important part in the 'commercial journey' of many of its members and this gives us a unique understanding of the practical challenges that councils face in today's turbulent economic and social environment.

2.3 EELGA member councils recognise that central and local government are on a shared pathway, requiring all stakeholders to continuously explore how the cost of the 'State' can be prudently managed. At the same time, our members share the Government's commitment to key policy objectives such as increased localism, tackling inequalities, social outcomes and economic growth.

2.4 What is not in doubt is that central government has actively encouraged an increase in commercial activities by councils in the past decade. This, in turn, has been a key element in the sector's response to the dual challenges of significant reductions in central government grant funding and additional constraints in terms of increasing Council Tax.

2.5 However, there is now a widespread perception in the sector that there is a continuous increase in restrictions on commercial activities. Tighter controls over borrowing were introduced in 2021, alongside changes to the Prudential Code. In August 2022, the Secretary of State issued an amended direction on the flexible use of capital receipts to fund transformation costs. Alongside an increase in the use of commissioners (and, in some cases, other authorities) to intervene in struggling councils, there is a strong perception of income generation activities being restrained at a time when more income is required to protect core public services. The plea to government from EELGA member councils is "please stop moving the goalposts."

2.6 Central government grants (including retained business rates) saw a 37% real-terms reduction between 09/10 and 19/20, from £41.0bn to £26.0bn in 2019/20 prices. At the same time, following changes made in the 2011 Localism Act, councils have not been able to raise Council Tax rates by more than 2% per annum without holding a referendum.

2.7 Councils also have relatively little discretion over how they spend the bulk of this grant funding and have very limited revenue raising powers compared to local authorities in other wealthy countries. In addition, they are seeing a proliferation in the number of small grants, which (unlike core funding) are often specific, short-term, competitively accessed and impose limits on what councils can deliver.

> *"We need more certainty around the Core Spending Power, including a minimum 3 - year settlement and a government commitment to cover unavoidable cost pressures (such as mandatory increases in the Minimum Wage)."*
> ***Chief Executive – City Council***

2.8 In addition, the experience of mid-2022 (including the invasion of Ukraine and the exponential rise in wholesale fuel costs) has demonstrated how rapidly cost of living pressures can translate into increasing financial pressure on council expenditure and increasing demand for locally delivered services. From housing refugees and helping residents in danger of falling into fuel poverty, to supporting businesses in challenging market conditions, councils have continued to step up to the plate.

2.9 At the same time, local authorities are required to respond to an increasing range of new obligations such as those emanating from the national resources and waste strategy (Environment Act 2021) and post-Grenfell enhancements to building safety (Building Safety Act and Fire Safety Regulations 2022).

2.10 However, local government has responded to these challenges (and the emerging pressure of an inflationary macro-economic environment) with resilience, innovation and a large dose of sheer hard graft. This has included looking outward and pursuing income generating opportunities as part of its efforts to closes the funding gap that most councils face on a recurring annual basis.

2.11 The sector has also continued to self-reflect and focus on continuing to deliver joined-up, efficient and effective public services. In most part this has been achieved through improving efficiency, implementing organisational transformation and innovation including collaboration, partnering across the sector and introducing alternative delivery models.

2.12 It is also important to note that EELGA members recognise the Government's declared intention to provide more funding certainty by way of multi-year settlements and simplifications to the grant system. This is likely, if delivered in a rational and equitable way, to have a beneficial impact on the sector.

Commercial Responses

2.13 As councils attempt to square the circle of increasing demand and **reductions** in central funding, a wide variety of commercial responses have emerged across the sector.

2.14 **Commercial Property Investment**

No other commercial activity undertaken by councils has attracted attention in the same way as the development of commercial property investment portfolios. In many cases these produce yields that can have a significant impact on General Fund (and HRA) finances. In most cases, although the focus has been on properties within a council's administrative boundaries, a number of councils have invested further afield – often attracted by a potentially wider choice of asset types and more buoyant regional/local market conditions.

> *"We have recently been frustrated by the new rules which led to us missing the boat on a significant out of area investment that would have provided a full income buffer against pending wage settlements and the impact of inflation."*
> ***Chief Executive – District Council***

2.15 It is this type of commercial investment activity that has recently attracted attention. A report from the Public Accounts Committee in July 2020 concluded that:

> "Financial pressure on local authorities' budgets, combined with encouragement to invest in commercial enterprises to bring in income, has seen risky investments in commercial property "balloon" 14-fold in three years, mostly funded by new debt.
>
> In this period local authorities spent an estimated £6.6 billions of taxpayers' money acquiring commercial property – over 14 times more than in the previous three-year period – with a further £1bn in the first half of 2019 - 20."

2.16 Although a number of high-profile public interest reports (including Bristol, Nottingham, Croydon, Liverpool) and independent governance reviews have highlighted a series of common failings, many in the sector feel that the response from central government has been too broad brush in nature. Specific failings, in specific councils, do not automatically mean that the questioning the overall validity and viability of the LATCO model is necessary or justified.

> *"We need to be able to borrow and invest sensibly at a local level – in our own area. Government could set some broad limits – perhaps a percentage of our overall asset base – and insist that we provide proper business cases for what we want to do."*
> ***Chief Executive – City Council***

2.17 **Traded Services (External)**

Another significant aspect of commercial activity by councils followed the introduction of the General Power of Competence (GPOC) in the Localism Act of 2011. In effect, this enables councils to do anything that an individual can do (as long as this is not proscribed by statute). This includes undertaking commercial activities outside of their administrative boundaries, for a commercial purpose and without the need to demonstrate that it will ***directly*** benefit the council or the area it serves. As a result, trading companies (LATCOs) have become commonplace, including Teckal[1] companies that largely supply services back into the council that owns them. The 2009 Trading Order requires that a business case ('a comprehensive statement') be prepared and

---

[1] Teckal' is a term used to describe a procurement exemption contained in Regulation 12 of the Public Contracts Regulations 2015. This allows the award of contracts from the Council to the LATCo without the need for a public procurement exercise providing the following conditions are fulfilled:

1) The Council, as the contracting authority, exercises control over the LATCo which is similar to that which it could exercise over its own departments (having a decisive influence over strategic direction and significant decisions).

2) More than 80% of the activities of the LATCo are carried out in the performance of tasks entrusted to it by the Council or other publicly owned bodies where peer to peer contracting arrangements can apply).

3) There is no private capital ownership of the LATCo (i.e., no private sector shareholders).

approved before exercising trading powers, thereby ensuring local political accountability.

2.18 LATCOs are generally established as companies limited by shares or guarantee, with the council either being the sole shareholder or co-owning the company with another public or private sector organisation. In either case, the council may generate income from these companies though the payment of dividends against profits, the levying of management charges, charging for the supply of support services and/or interest payments on funds loaned to them. Common examples of the services where LATCOs have been established include housing development (both social and for profit), school meals, trade waste, building control, grounds maintenance, pest control, home/community alarms, CCTV and events venues.

2.19 In addition to these explicitly 'commercial' activities, councils have other long-standing options available to them to generate income, including:

- **Fees and Charges**: power to charge for services on the basis of cost recovery - applied to services such as pools and fitness centres, Planning, Building Control, parking and bulky waste collections.

- **Peer-to-Peer Trading**: where councils look to their peers to fill capacity and capability gaps and establish cost-saving collaborations and/or income generating opportunities. This often begins with supplying 'back office' functions such as accountancy, HR and legal to other council services such as schools.

- **Infrastructure Development:** councils can adopt a more commercial approach to delivering place-based regeneration projects and to addressing the challenge of meeting local housing need and supporting their wider strategic objectives, such as economic growth and the development of local employment markets. In many cases, the scale of these projects makes it necessary for councils to enter into joint ventures with commercial partners.

2.20 Across the UK, many councils have adopted innovative approaches to protect the delivery of frontline services, increase local participation and oversight, and continue to deliver value for money. The two examples below are illustrative of how different approaches (a Mutual and a shared service arrangement) have been developed to ensure that essential council services can be protected and operated in a more 'business-like' manner.

Case Study – Governance with a Difference
SIPS Education (Birmingham) uses an alternative governance model in that it is a not-for-profit education support services provider. It was established as a Mutual to enable it to focus on the people, communities and places it serves. As its primary purpose is not to make profits, it has been able to build its delivery around effective service partnerships and quality products. SIPS is owned and governed by schools – who are co-operative voting members of the organisation – and its board is made up of representative community headteachers and local authority colleagues.

Case Study – Shared Service that builds capacity
CNC Building Control is a partnership of five building control departments (South Norfolk Council, Norwich City Council, Broadland District Council, Borough Council of King's Lynn & West Norfolk and Fenland Council). It offers an integrated service across these areas and delivers an effective and cost-controlled collaborative solution to a service that faces ongoing staffing and resourcing challenges.

Current Challenges

2.21 Council seeking to generate more income are subject to a combination of externally imposed restrictions and internal challenges.

2.22 **Economic Environment**
Even prior to the COVID-19 pandemic, authorities were wrestling with local challenges including declining high streets and the need to drive economic growth supported by infrastructure regeneration. Now that councils are dealing with the additional financial impact of COVID recovery, loss of income and cash flow challenges, most are experiencing significant pressure on local services. In recent months, rapidly rising inflation has become a further aggravating factor.

2.23 **Fragmented Grant Funding**
The funding landscape for local authorities is becoming ever more complex, with a proliferation in the number of smaller grants that they need to bid for. Unlike core funding programmes, these types of grants are typically very specific, short-term and often accessed competitively. In essence, they are reactive grants designed to help manage rising levels of demand and limiting in terms of what authorities can do.

2.24 EELGA's view is that authorities need flexibility to put the needs of local residents and businesses front and centre without the burden of navigating a complex and fragmented funding landscape to do so. The majority of EELGA's members believe this would help to facilitate a shift towards the prevention of crises rather than simply managing them. This in turn, would ensure better value is derived from scarce public resources. Stability in this context would include:

- Multi-year settlements tied to the life of a parliament.
- Funding delivered through primary sources rather than individual programmes.
- Incentives/funding for economic regeneration programmes that support growth and build local economies (and communities) consistent with the drive to tackle inequality.

The multiplicity of grant steams is hugely resource and time consuming to navigate - there needs to be transparency as to what Government wants to achieve and funding needs to be sustainable, non-bureaucratic and represent a level playing field.
Managing Director, Borough Council

2.25 **Revisions to PWLB Rules and Prudential Code**
The Public Works Loan Board ('PWLB') lending facility is operated by the UK Debt Management Office (DMO), providing loans to local authorities operating within a policy framework - mainly for capital projects - set by HM Treasury.

> *"At a regulatory level, the concern is less about the quantum of borrowing or investments, but more related to ability to service debt and to cover unexpected shortfalls."*
> ***Local Government Finance Expert***

2.26 In March 2020, PWLB launched a consultation on the terms of its lending and proposed reforms aimed at tackling perceived abuse of borrowing powers by some authorities. In November 2020, new guidance was issued on borrowing terms and there was a welcome rate drop. However, in many quarters, the changes were regarded as a 'sledgehammer to crack a nut' given that most authorities were using the PWLB responsibly. The related changes are now embedded in the Prudential Code, but there is a degree of uncertainty as to what is permissible.

> *"Borrowing for yield is not the key issue. The recent changes to the Prudential Code are simply a clarification of the existing arrangements, not new rules. My view is that there needs to be an over-riding focus on making decision that most benefit the local taxpayer."*
> ***Local Government Finance Expert***

2.27 Authorities must now as part of the PWLB application process submit a high-level description of ***all*** their capital spending and financing plans over a rolling three-year period. As part of this, the S151 officer must confirm that the authority is not borrowing in advance of need and does not intend to buy investment assets primarily for yield. It is also not permissible to pursue a "deliberate strategy" of using private and internal debt which will, in future years, be refinanced with PWLB debt.

2.28 As previously noted, PWLB borrowings have been used extensively to support investment in commercial property assets. This raises a question over whether recent changes preclude investment of this type where a financial yield is expected. The answer is "not necessarily." Purchasing investment property within an authority's local area for long term or strategic purposes (for example: regeneration or housing) is clearly within the powers of the authority. Therefore, acquisition purpose is key and needs to be carefully considered when applying for PWLB funding.

> *"We are being forced by government to take an overly cautious and prudent approach to investment and income generation. We feel like we have both hands tied behind our back and, even though our Members are supportive, we simply cannot risk the cost of abortive projects."*
> ***Chief Executive – City Council***

2.29 Authorities that do not comply with the terms of PWLB borrowing, or subsequently breach them, risk being barred from borrowing in the future and/or being required to repay any of their borrowing. HM Treasury has placed the burden of clarifying whether any one loan or investment falls within the restriction on the shoulders of S151 officers. This inevitably results in some personal nervousness over the ability to provide such assurances and can result in a reluctance to approve the funding of some investments through PWLB.

2.30 **Access To Alternative Funding Solutions**
In response to these restrictions on PWLB lending, authorities have been required to access alternative funding solutions.

2.31 **Peer-To-Peer Lending** remains a widely used option for many councils with some 151 officers seeing it as a default option. The MJ reported that this activity had reached a value of £115bn in 2018/19 and, as interest rates for this type of borrowing remain lower than those levied by the PWLB, this source of finance looks set to continue to play a prominent role.

2.32 **Municipal Bonds** have come back into focus since the establishment of the UK Municipal Bonds Agency (UKMBA) in 2014. The Agency is owned by local authorities and sells municipal bonds on the capital markets and on-lend the funds to council on a cost-effective basis. Take up of UKMBA products has taken longer than expected following a series of delays and false starts.

2.33 **UK Infrastructure Bank** was established (in response to the UK leaving the European Union) to provide low-rate loans to councils and mayoral authorities to fund climate change activities and support regional/local economic growth. The Bank is publicly owned and was given initial capital of £12bn. It can offer up to £10bn of government guarantees.

2.34 **Private Sector Investors and Lenders** also have an appetite to lend to local authorities and are offering flexible terms, competitive rates and increasingly short turnaround times.

2.35 **Learning lessons**
Recent Public Interest Reports at Nottingham City Authority, London Borough of Croydon and Northampton Borough Authority have identified in-common issues including:

- Not exercising appropriate care with public money.
- Weak governance arrangements.
- An inability to ineffectively manage risk in the short and long-term.
- Unrealistic degree of ‘optimism bias’ baked into commercial plans.

2.36 A large number of authorities have responded positively to this challenge, and recent changes in economic circumstances, by reviewing their local oversight and governance arrangements to ensure that are robust as well as reviewing their financial plans in response to emerging inflationary pressures. In so doing, there has been a focus on ensuring that prevailing commercial risks are understood and under active management plus that expected returns and investment requirements are prudently incorporated into future financial planning.

Responding to The Challenge

2.37 Local authorities need to operate to best commercial practice whilst retaining a sense of social purpose. This starts with having clarity (between Officers and Members) in respect of the commercial strategy being adopted. Building a shared understanding of how commercial activity dovetails with other strategic objectives is essential to ensure that commercial activities can be justified, particularly in the context of them being ‘primarily for yield’ or not.

2.38 In addition, the potential for tension between profit generation and delivering social value (e.g., in relation to affordable housing development) can prove to be challenging for many authorities. However, well focussed commercial activity can enhance social value by supporting local infrastructure development and economic regeneration whilst generating a sustainable financial return.

2.39 Robust commercial governance, oversight and management framework is also a key priority. Commercial activity carries an inherent element of risk and councils (like any commercially driven organisation) need to adopt a pragmatic approach to recognising commercial risk supported by strong governance and performance management arrangements.

2.40 It is worth noting that, as governance models vary to reflect local constitutional arrangements (Cabinet, Committee, elected Mayor etc), the key success factor is not the system of governance itself, but how it is operated and whether it is structured to enable an appropriate degree of scrutiny and challenge.

2.41 **Practical Challenges**

As noted above, local authorities are dealing with many organisational challenges related to meeting increasing demands and responding to financial pressures. This often results in significant demands upon leadership teams that distract from other objectives (commercial included). Management and leadership resources are scarce in many authorities, yet it is critical that adequate, expert resource is consistently deployed to ensure that commercial activities are effectively managed and expected financial aspirations delivered. Although this, ideally, comes from developing internal capacity and capability, it is widely recognised that there is a strong case to be made for engaging external expertise to provide appropriate technical and/or commercial support.

2.42 This typically requires a medium to long term approach that can be in conflict with the shorter-term perspective of the electoral cycle. In the absence of a stable local administration or cross-party consensus in relation to commercial initiatives and activities, result in ‘false starts’ with use valuable resources and can incur significant abortive costs.

2.43 EELGA would also highlight the need to engage with, and manage, commercial delivery partners. Over time, a number of EELGA member councils have progressively recognised a misalignment of objectives, particularly in commercial joint ventures and service partnerships. This generally arises when an authority’s need to reduce net spend and increase control over service priorities comes into conflict with a commercial partner’s focus on turnover and/or profit.

2.44 In such cases the onus is on the council to ensure that value for money is being achieved and that there is a business-like engagement with the partner organisation. If a consensus around purpose and outcomes cannot be achieved, we consider that authorities should investigate alternative delivery arrangements and we have seen an increasing trend for authorities to 'insource' services either for direct delivery or into LATCOs.

A Future Vision

2.45 This narrative presents a mixed picture of frustrations and obstacles, combined with enticing glimpses of how central and local government can work together to create an operating environment that delivers innovation and success whilst ensuring that public money is spent with responsibility, accountability and transparency.

2.46 To help bring about such a mutually beneficial outcome EELGA believes that a re-invigorated and re-energised partnership between local and central government will be key. By further developing a sense of common purpose and establishing a set of rational and reasonable 'ground rules,' we believe that local government can enhance the way it serves its residents (particularly those facing the most severe challenges) whilst creating a social, economic and physical environment in which all take pride.

2.47 To help deliver this vision, EELGA suggests that all partners consider these practical steps:

i. *The sector requires a more stable funding solution (3 - 5 years)*
To enable better planning and provide central government with a more robust basis on which to measure local performance. This, combined with simplified core grant funding, would help authorities to focus on prevention rather than crisis management.

ii. *A more nuanced approach to monitoring and assessing local authority trading activities.*
Based on individual cases and not (as is currently the perception) a 'sledgehammer to crack a nut' approach. Although specific cases of poor investment decisions can be cited, the picture across the sector is largely one of responsible behaviour by councils.

> *"Ultimately, there needs to be a clear framework and thereafter local, accountable decision making."*
> ***Local Government Finance Expert***

iii. *PWLB rules and Prudential Code should be revised to reflect refined a more individual approach.*
Discussions with EELGA members have indicated a willingness to provide additional assurance to central government in return for greater local freedom to make investment decisions and manage commercial activities. This would mirror the ways in which, over many years, local government has worked closely with central government to deliver a range of co-produced programmes.

iv. *Greater incentives for projects that support local economic regeneration.*
In many cases, where councils are perceived to have made 'unwise' investments, it is because these have been outside their administrative borders. Although recent

changes to the PWLB rules and Prudential Code focus on addressing this issue, EELGA believes councils should be encouraged to prioritise and fund projects that are designed to fully realise local economic and social potential. There is clear potential for Government to develop a system such has ‘preferential’ PWLB rates to encourage this type of local investment.

v. *The UK Municipal Bonds Agency should be turbo-charged.*
The UKMBA has the potential to be a game-changer in the sector. The majority of EELGA member councils have declared a climate emergency and have developed a long-term strategy to meets ambitious net-zero targets. The potential for these activities to fuel economic activity on a local and regional level is recognised by many. The sheer scale and long-term nature of the investment required makes Bonds a highly appropriate funding vehicle.

vi. *Support councils that recognise and invest in Community Wealth Building.*
Projects that support the circular economy produce local benefits by encouraging (and, potentially, incentivising) local public sector partners and stakeholder to work together to boost economic activity in their area. Examples of success (including Preston City Council) demonstrate that, by putting councils at the centre of a public/private matrix, tangible benefits, can be realised - including greater community engagement, higher local consumer spend and increased participation of local SMEs in public procurement opportunities.

vii. *Central and local government should jointly revisit the General Power of Competence.*
Since the Localism Act came into effect in 2013, councils - via the General Power of Competence - have been encouraged to explore a wide range of commercial activities. However, many sector leaders feel that the ‘permission’ to do this has been eroded by a series of restrictive directions issued by central government. Most recognise the need to highlight and discourage potentially high-risk activities, but almost all agree that the basic principle of the GPOC remains a useful tool. EELGA would suggest that all parts of the sector come together to establish whether GPOC remains fit-for-purpose and whether it could be reconfigured to work more effectively in the light of the experience gained since it was first introduced.

What Councils Can Do

2.48 Alongside a desire from EELGA’s member authorities to continue to build and develop their working relationships with central government around the issues of commercialisation and income generation, it is recognised that there are a number of actions that councils can pursue on a regional/local basis.

i. *Clarity of purpose and expectations for commercial performance.*
One EELGA City Council Chief Executive highlighted the need to ensure that officers and elected members are on the same page when it comes to the expected outcomes of commercial activities. It is not uncommon for one group to see income generation as the desired outcome, whilst the other may have their eyes set on social outcomes. The production of a strong Strategic Case (for example, as part of a Treasury approved Five Case business case – see vii below)

will help to clearly articulate the connection between commercial activity and a council's corporate objectives.

ii. *Focus on performance measures and management.*
Undertaking commercial activities in the public sector requires greater transparency and accountability than is found in much of the (non-publicly owned) private sector. The use of public and taxpayer funds to take on commercial risk should always be subject to proper scrutiny. The performance of this type of activity also needs to be measured in a clear and robust manner so that essential criteria such as value-for-money and public interest remain visible. On an operational level, day-to-day management of commercial activities also requires strong oversight and professional discipline. Whether the activity is taking place in house, or it is contracted out to a LATCo or a commercial partner, the effective management of the business or the contract for supply will have a critical impact on whether the activity succeeds.

iii. *Developing internal capacity and capability.*
Councils have made a concerted effort to bring in or develop commercial experience and expertise within their workforce. However, resourcing, location, market competition and candidate scarcity make this an ongoing challenge for many. Nevertheless, many EELGA member councils have invested in building the commercial skills of both Officers and elected Members, recognising that this helps them to operate services in a more business-like manner and to make better quality decisions relating to income generation.

> *"This is largely a local challenge and the key thing is to upskill s151 and Monitoring Officers to develop their role and competence to respond to the commercial challenge."*
> ***Chief Executive – District Council***

iv. *Use external expertise.*
In the face of the recruitment challenges outlined above, many of EELGA's member councils bring in external support to add flexible capacity to their organisation or to add expertise to specific projects. This is either in the form of interim managers or by commissioning consultancy projects. The EELGA Talent Bank provides direct, peer-to-peer sourcing for our member councils to access to a wide range of senior industry professionals and many of our member councils also use other frameworks or procurement exercises to source this type of support. It is worth noting that changes to the IR35 regulations in 2017 have had a significant negative impact on the ability of councils to find interim managers willing to work in posts that are classified as being inside IR35.

v. *Greater peer-to-peer co-operation and collaboration.*
With capability and capacity an ongoing challenge, the sector could (and already does, to some extent) better leverage the benefits of sharing knowledge, experience, expertise and resources. Many EELGA member councils recognise the potential to formalise some of these arrangements to spread the cost and provide access to higher levels of expertise. For example, many individual councils cannot afford to employ a Commercial Director or Finance Director to lead their trading

companies. However, sharing that resource across (non-competing) councils could offer an economical way to engage this type of resource.

vi. *More information about what works.*
The local government sector is an inherently fluid and non-competitive environment, where peer challenge and support and sharing information about best practice is common. In addition, the regular movement of staff between organisations helps to (albeit informally) propagate a sense of common purpose and enable ideas to circulate. Some groups exist (either self-organised or evolving from social media contacts) but the sector could benefit from a more structured platform for information sharing.

vii. *Support with commercial business cases.*
It is good commercial practice to produce a formal business case for any proposed activity or enterprise. Although many councils already do this, the format and quality can be varied. EELGA supports the use of the Treasury 'Five Case' model as it provides a structure to ensure that all relevant aspects – strategic economic/social, commercial, financial, operational, management – are taken into consideration. Although business cases can be adapted to reflect a lighter touch approach for more modest investment proposals, many councils have seen the benefit of producing structured business cases both in terms of commercial integrity and as a crucial part of their governance framework.

> *"The focus now will probably swing on supporting risk managed commercial activity by improving quality of business cases and governance."*
> ***Local Government Finance Expert***