

## Alternative Service Delivery Models (ASDM) Human Resources- related considerations

**Seek advice at an early stage on the HR issues that may be relevant when moving to an ASDM see [Contacts](#). For general information read on.**

### Challenges which relate to services remaining in-house:

Challenge/barrier	Potential impact	Mitigation
Lack of awareness and understanding amongst staff group regarding the drivers for proposed changes to how the service will be delivered	Apathy or more overt resistance to discussions on the proposed changes to how the service will be delivered	Early engagement with staff and the trade unions to provide information
Staff anxiety and uncertainty regarding the proposals to change the way the service will be delivered	<ul style="list-style-type: none"> <li>• Detrimental effect on individual and team/service performance</li> <li>• Increased instances of sickness absence</li> <li>• Conduct issues within the workplace</li> <li>• Grievances and other low level employee relations issues</li> </ul>	<ul style="list-style-type: none"> <li>• Open and honest communication regarding the proposal and what this may mean for the staff group – myth busting</li> <li>• Seek the involvement/contribution of staff in the development of the proposal</li> <li>• Staff advised of the requirement to ensure ‘business as usual’ approach to the delivery of the service</li> <li>• Specific issues (performance, absence and conduct) will, where necessary, be addressed formally.</li> </ul>

**Challenges which relate to the outsourcing of services and to the transfer of staff to a KCC-owned organisation:**

Challenge/barrier	Potential impact	Mitigation
Lack of awareness and understanding amongst staff group regarding the drivers for proposal to outsource a service or transfer to a new organisation owned by KCC	Apathy or more overt resistance to discussions on the proposal	<p>Early engagement with staff and the trade unions</p> <p>Identifying the basic provisions of TUPE* and what this will mean for staff</p> <p><small>* TUPE is likely to apply where the new KCC owned organisation is set up as a separate legal entity</small></p>
Staff anxiety and uncertainty regarding the proposals to change the way the service will be delivered	<ul style="list-style-type: none"> <li>• Detrimental effect on individual and team/service performance</li> <li>• Increased instances of sickness absence</li> <li>• Conduct issues within the workplace</li> <li>• Grievances and other low level employee relations issues</li> </ul>	<ul style="list-style-type: none"> <li>• Open and honest communication regarding the proposal and what this may mean for the staff group – myth busting</li> <li>• Seek the involvement/contribution of staff in the development of the proposal</li> <li>• Staff advised of the requirement to ensure ‘business as usual’ approach to the delivery of the service</li> <li>• Specific issues (performance, absence and conduct) will, where necessary, be addressed formally</li> </ul>
Transfer of staff to the new organisation	<ul style="list-style-type: none"> <li>• Uncertainty and anxiety regarding the impact on pay and terms and conditions arising from transfer from KCC to the new organisation delivering the service</li> </ul>	Engagement and formal consultation with staff and the trade unions

Challenge/barrier	Potential Impact	Mitigation
Staff not wishing to transfer	<ul style="list-style-type: none"> <li>• Employee relations issues – including attendance, performance and conduct</li> </ul>	<ul style="list-style-type: none"> <li>• Further engagement with the individuals regarding their concerns relating to the proposed transfer</li> <li>• Explanation of the consequences of not transferring to the new organisation, i.e. this will be deemed a resignation and there will be no entitlement to a redundancy payment</li> </ul>
Requirement for changes to be made to terms and conditions post transfer - where there is an economic, technical or organisational (ETO) reason for this	<ul style="list-style-type: none"> <li>• Redundancy dismissals may occur as a result of the new organisation needing to relocate to new premises</li> <li>• Redundancy dismissals arising from a need for the new organisation to reduce its workforce</li> </ul>	KCC can give agreement to allow the new organisation to engage in pre-transfer consultation arrangements with the staff group affected by the proposed changes

**Challenges which relate to the spinning out of services:**

<b>Challenge/barrier</b>	<b>Potential Impact</b>	<b>Mitigation</b>
<p>Lack of awareness and understanding amongst staff group regarding the drivers for proposal to spin out the service</p>	<p>Apathy or more overt resistance to discussions on the proposed spinning out of a service</p>	<p>Early engagement with staff and the trade unions to provide information</p> <p>For proposals involving the creation of an employee-led organisation (mutual, social enterprise etc.) the engagement process should cover matters such as:</p> <ul style="list-style-type: none"> <li>• Possible ownership models and legal structures for the new organisation (include advantages and disadvantages for each of these)</li> <li>• Potential benefits and risks of moving to a an employee-led organisation</li> <li>• Identifying the basic provisions of TUPE and what this will mean for staff</li> <li>• Establishing the level of support for the proposed employee-led organisation</li> </ul>

Challenge/barrier	Potential Impact	Mitigation
<p>Staff anxiety and uncertainty regarding the proposal to spin out the service</p>	<ul style="list-style-type: none"> <li>• Detrimental effect on individual and team/service performance</li> <li>• Increased instances of sickness absence</li> <li>• Conduct issues within the workplace</li> <li>• Grievances and other low level employee relations issues</li> </ul>	<ul style="list-style-type: none"> <li>• Open and honest communication regarding the proposal and what this may mean for the staff group – myth busting</li> <li>• Seek the involvement/contribution of staff in the development of the proposal</li> <li>• Staff advised of the requirement to ensure ‘business as usual’ approach to the delivery of the service</li> <li>• Specific issues (performance, absence and conduct) will, where necessary, be addressed formally</li> </ul>
<p>Financial viability of an organisation created following the spinning out of a service</p>	<p>Ability for the new organisation to be able to meet the financial demands of:</p> <ul style="list-style-type: none"> <li>• Staffing costs (salaries + on-costs, maintaining KCC terms and conditions and funding future pay awards)</li> <li>• Pension provisions (‘broadly comparable’ to LGPS or seeking admitted body status)</li> <li>• Other legal costs associated with setting up the new organisation</li> </ul>	<ul style="list-style-type: none"> <li>• Seeking appropriate independent legal, financial and HR advice at an early stage in the development of the proposal</li> <li>• Seek specific legal advice on whether TUPE will apply to the transfer of staff to the proposed new organisation</li> <li>• KCC can provide information (HR, Finance and Payroll) to help support the development of the proposed new organisation</li> </ul>

Challenge/barrier	Potential Impact	Mitigation
<p>Conduct and/or performance issues relating to staff involvement in the development of a proposal for an employee-led organisation created through the spinning out of a service</p>	<ul style="list-style-type: none"> <li>• Misuse of KCC equipment and resources</li> <li>• Inappropriate and/or unauthorised access and use of data collected and stored by KCC – including sensitive personal data of service users</li> <li>• Breaches of the Kent Code</li> <li>• Conflict of interest between involvement in the proposed new organisation and KCC duties and responsibilities</li> <li>• Work on the proposal interfering with the performance of normal day to day duties</li> </ul>	<ul style="list-style-type: none"> <li>• Managers and staff will be advised of the expected standards of conduct and performance</li> <li>• Copies of the guidance on social enterprises, mutuals etc. will be provided</li> <li>• Serious or repeated breaches of the expected standards will be addressed formally</li> </ul>
<p>Transfer of staff to a new organisation created following the spinning out of a service</p>	<ul style="list-style-type: none"> <li>• Uncertainty and anxiety regarding the impact on pay and terms and conditions arising from transfer from KCC to the new organisation delivering the service</li> </ul>	<p>Engagement and formal consultation with staff and the trade unions</p>
<p>Provision of back office functions (HR, payroll, finance and ICT) in a new organisation created following the spinning out of a service</p>	<ul style="list-style-type: none"> <li>• Failure to achieve a seamless transition between organisations at the point of transfer which could impact on: <ul style="list-style-type: none"> <li>- staff payments (salaries, expenses etc.)</li> <li>- payments to other organisations</li> <li>- the functioning of business systems</li> <li>- continuity of managing employee liabilities</li> </ul> </li> </ul>	<p>Effective planning on how back office functions will be delivered in the new organisation – this includes ensuring that the back office arrangements are in place to work prior to the transfer so that seamless transition can occur. KCC can provide information (HR, Finance and Payroll) to assist with this</p>

Challenge/barrier	Potential Impact	Mitigation
Requirement for changes to be made to terms and conditions post transfer - where there is an economic, technical or organisational (ETO) reason for this	<ul style="list-style-type: none"> <li>• Redundancy dismissals may occur as a result of the new organisation needing to relocate to new premises</li> <li>• Redundancy dismissals arising from a need for the new organisation to reduce its workforce</li> </ul>	KCC can give agreement to allow the new organisation to engage in pre-transfer consultation arrangements with the staff group affected by the proposed changes
Skills and knowledge to run the new employee-led organisation	<ul style="list-style-type: none"> <li>• The managers in the new organisation are not fully equipped in terms of knowledge and skills to ensure the effective running of the service in a more commercial environment</li> <li>• The gaps in the skills and knowledge of management has an adverse effect on the organisation's ability to deliver high quality services in a cost-effective manner</li> </ul>	Commercial skills and business acumen are being incorporated in management and leadership workshops.
Governance arrangements in the employee-led organisation for determining pay and terms and conditions of employment	<ul style="list-style-type: none"> <li>• Poor employee relations climate and a lack of employee engagement which can adversely affect service delivery in KCC</li> <li>• More adversarial and time consuming process of determining pay awards and developing terms and conditions in the new organisation</li> </ul>	<p>Effective engagement with employees and the trade unions prior to transfer to seek to agreement on matters such as:</p> <ul style="list-style-type: none"> <li>- trade unions recognition &amp; facilities</li> <li>- collective agreements</li> <li>- pay bargaining arrangements</li> </ul>

<b>Challenge/barrier</b>	<b>Potential Impact</b>	<b>Mitigation</b>
<p>People with key skills which are for the employee-led organisation leave prior to the transfer</p>	<p>The gap in skills and knowledge caused by key members of staff leaving ahead of the transfer has an adverse effect in the short term on service delivery</p>	<ul style="list-style-type: none"> <li>• Effective management of requests for voluntary redundancy</li> <li>• Examine the possibility of experienced staff from similar services (or those where staff have transferrable skills) being seconded from KCC to the new organisation to plug gaps whilst permanent replacements are being recruited</li> </ul>