



Southampton City

# Southampton City Council

## **How the SSP was awarded to Capita**

Public version



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(Continuing the work of the Centre for Public Services)

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The **European Services Strategy Unit** is committed to social justice, through the provision of good quality public services by democratically accountable public bodies, implementing best practice management, employment, equal opportunity and sustainable development policies. The Unit continues the work of the Centre for Public Services which began in 1973.



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## Executive summary

In July 2007, Southampton City Council awarded a £290m ten-year SSP contract to Capita Group PLC.

The City Council had embarked on a SSP in 2005 and originally had a shortlist of five private contractors. Fujitsu and Vertex subsequently withdrew. The City Council agreed to issue an ITN based on Phase 1/2 (Cabinet January 2006) but management inserted a series of variant options. BT, Capita and Serco submitted proposals. In September 2006 BT and Capita were invited to participate in competitive negotiations but BT withdrew leaving one contractor, Capita Group PLC.

The Council and the Cabinet meetings in January 2006 decided that the project should be undertaken in phases: Phase 1/2 included IT and a Customer Contact Centre with other services such as Property Services, Human Resources and Payroll in Phase 3.

The Variant Bids from BT and Capita are basically condensing Phases 1 – 3 into a single phase plus adding some additional services within scope of the contract. Whilst it is an advantage to seek variant bids, in this case the contractors approach undermines the political decision made earlier in the year to split the project into three phases.

Capita's original proposals were based on exploiting the variant options contained in the ITN. The Cabinet decision in January 2006 was in effect to procure an incremental strategic partnership (as promoted by the government's strategic partnering taskforce).

However, the City Council was faced with one private sector option and outsourcing all the services – a big bang approach – and the incremental approach had been abandoned. Capita imposed several conditions on the City Council:

- The provision of a new business centre is conditional on the inclusion of Property Services in the scope of the contract.
- The inclusion of the Procurement service is conditional on the inclusion of all currently proposed Phase 3 services within scope of the contract.
- The Gateway will only be refurbished if the contract includes the provision of a new business centre (probably because the refurbishment costs will be included in the annual lease of the new business centre).

### Critical analysis of the SSP

Southampton UNISON commissioned the European Services Strategy Unit (ESSU) to advise the Branch during the procurement process and to assess the bids with regard to their impact on staff, the City Council, service users and the local economy. The City Council made available certain parts of the bids as a result of an Information Agreement made between the City Council with UNISON and the ESSU. We did not have access to the detailed financial data in the bids but had access to confidential financial appendices in City Council reports.

ESSU has produced three highly critical reports on the SSP for Southampton UNISON local government branch which were confidential reports circulated to elected members and officers:

- Analysis of Strategic Services programme Bid and an Alternative Strategy, September 2006.
- Southampton City Council: The Case Against a SSP with Capita PLC, March 2007. A shorter public version of this report was also published after consultation with the City Council.



- Southampton: High Price of SSP, July 2007.

This report is an edited public version of these three reports.

### **Affordability**

The difference between the Bidder price and the Public Sector Comparator was a result of assuming that the PSC procurement savings are only 50% of those forecast for Capita. Furthermore, once potential hidden costs are taken into account, the project savings could virtually disappear. The hidden costs include higher than planned IT development costs, accommodation costs, unquantified CRM extra costs and other costs because the council is exposed to increased financial risk in the volume of services to be delivered.

### **Performance Risks**

Increased client side costs, the lack of an agreed framework agreement and the failure to assess the impact of the SSP with regard to the local economy, community well being, sustainable development and regeneration and development are risks confronting the City Council, which cannot be transferred to the private sector.

### **Employment issues**

Despite City Council statements that staff and unions are “paramount and key to the successful implementation of the SSP” the current report contains:

- No final employment data supplied in the July 2007 report.
- No equalities profile of the staff being transferred?
- No information about planned changes in staffing levels over the course of the contract
- No job creation targets
- No shared services targets

It is unprecedented and inconceivable that elected members is being asked to approve a £180m contract bereft of this information.

This is a very serious abrogation of the Council's employment responsibilities in the transfer of 650 staff to a private contractor. There is a strong case to be made that the exclusion of this information makes it impossible for the Council or the Cabinet to make a decision approving the award of contract.

The evaluation of bids revealed concerns about Capita's approach to staff recruitment, retention, training and industrial relations. The City Council has never been committed to a secondment model and ignored the transfer of risks to staff (UNISON, 2006). It has rejected demands for a TUPE Plus transfer (UNISON, 2007) and is now proposing a standard TUPE transfer to a private contractor which has very little respect in the trade union movement (and beyond) because of its track record. The retention of membership of the Local Government Pension Scheme is welcome but only maintains the status quo.

### **Governance arrangements**

The governance and organisational arrangements require further development with regard to the transparency of the three Partnership Boards, the role of Scrutiny in assessing performance and progress, trade union involvement and the industrial relations framework and stakeholder involvement (including service users) in the SSP project if it is approved.

### **In-house option**

Previous UNISON reports have made the case for in-house transformation drawing on the experience of other successful local authorities. The £25.2 capital investment over ten years could be funded through prudential borrowing. The City Council has deliberately played down

the capability of city council staff. The cost of additional consultancy advice and back-filling existing posts for an in-house approach has been included in the Public Sector Comparator.

### **Shared services strategy**

The City Council should develop a public sector Solent Shared Services Strategy with Havant BC and other neighbouring local authorities. It is likely that other local authorities will be more enthusiastic cooperating with the City Council directly than joining a private sector project, which they had not been involved.

The Comprehensive Spending Review 2007 Interim Report indicates that the shared services agenda will be accelerated and those authorities which have been reluctant to participate to date will be under increasing pressure to do so (HM Treasury, 2006).

The City Council should immediately:

- Redirect the ISiS team, together with other required skills, to form an in-house team.
- Divert the expenditure planned for the SSP to this new project team.
- Plan and design an in-house strategy drawing on the experience of Kent, Newcastle and other local authorities, which adopted an in-house approach. This would include an affordable implementation plan and a capability review to determine which elements of the programme could be obtained in-house and which require sourcing using 'best in class' procurement;
- A joint officer/Elected member approach to other local authorities and public sector bodies in the Solent to seek their involvement in a genuine public sector shared services strategy.
- An implementation plan which was geared to affordability and capacity to deliver to ensure that the project achieved maximum effectiveness and there is no negative impact on frontline services.

At least nine local authorities have considered a SSP, and in some cases reached the preferred bidder stage in the procurement process, before deciding that an in-house approach provided value for money and was affordable.

A public sector Shared Services strategy could be funded from a mixture of revenue savings from the Business Process Reengineering, prudential borrowing – good performing public bodies are allowed to increase investment based on their ability to meet loan charges (this is not available to fund an outsourcing contract), leasing arrangements, various government programme and project grants, the capital investment programme and the use of reserves to pump prime initial investment.

### **Recommendations in UNISON's first report**

- 1) The Strategic Services Programme procurement should be terminated and an in-house strategy should be developed as outlined in Part 6.
- 2) The City Council should develop a public sector Solent Shared Services Strategy with Havant BC and other neighbouring local authorities.
- 3) It should retain the agreed incremental approach to the project starting with Phases 1 and 2 and only progressing to other services following rigorous appraisal and evaluation.
- 4) If the City Council decides to proceed with the procurement process it should further investigate the legal implications of a full secondment model.

### **UNISON's second report recommended that the City Council:**

1. Does not appoint Capita as a preferred bidder for the SSP.



2. Agrees prepare an in-house transformation plan which adopts and amends the specifications and proposals prepared during the procurement process for the SSP. This would include a resource and investment plan and identify which elements can be developed using existing capability and skills and which require external sourcing using best in class techniques.

3. Draw up a new shared service strategy which includes collaboration, lead authority and joint provision strategies which are more likely to engage other authorities and public bodies in genuine shared services strategies in place of a Capita-private sector led approach.

4. Engage staff and trade unions in the implementation of strategies and projects.

If the SSP proceeds:

- The City Council must ensure that the SSP is based on TUPE Plus transfer.
- It is essential that Capita be required to maintain membership of the LGPS for the entire length of the contract, give an undertaking to minimise the transfer of staff to a Capita pension scheme where staff are required to work on other projects, and a mechanism is put in place which requires Capita to seek City Council approval for all transfers out of the LGPS other than for leaving or retirement.

**UNISON third report recommended:**

1. The City Council should not award the Strategic Services Programme to contract to Capita Business Services Ltd.

2. The City Council should use the work undertaken in the SSP to date to develop an in-house transformation strategy and implementation plan.

3. The City Council should prepare a shared services plan jointly with other local authorities and public bodies in the Solent. This should be based on principles of quality of service, democratic accountability and transparency and quality employment. A progressive shared services strategy will have a vision of, and commitment, to collaboration, lead authority and jointly managed services projects.

4. It should involve staff and trade unions in the planning, design and implementation of the transformation plan through service improvement workshops, secondments and other initiatives to harness staff ideas and commitment to change.

The City Council awarded the SSP contract to Capita Group plc on 18 July 2007. Southampton City UNISON branch made a presentation making the case against the award of the contract but the Conservative and Liberal Democrat groups voted to award the contract.

## Part 1

# The SSP proposal

The City Council embarked on a SSP and originally had a shortlist of five private contractors. Fujitsu and Vertex subsequently withdrew. The City Council agreed to issue an ITN based on Phase 1/2 (Cabinet January 2006) but management inserted a series of variant options. BT, Capita and Serco submitted proposals but the latter's were weak. In September 2006 BT and Capita were invited to participate in competitive negotiations but BT withdrew leaving one contractor, Capita PLC.

The Council and the Cabinet meetings in January 2006 decided that the project should be undertaken in phases:

**Phase 1/2:** IT and Customer Contact Centre.

**Phase 3:** All other services including Property Services, Human Resources and Payroll.

The ITN required the bidders to submit a Standard Bid for Phase 1/2 which had to satisfy the Customer Services Output Specification and the IT Services Specification. However, it also allowed the submission of Variant Bids which could include the stated Phase 3 services, and others, in Phase 1. Bidders are required to submit two options for a Standard Bid and any Variants. The first option should be a secondment option and the second should assume a TUPE transfer model. Bidders were encouraged to submit alternative hybrid or choices models as a variant Bid.

All three bidders stated that they would still be interested if the City Council decided to proceed with the Standard Bid.

It is also important to note that full specifications were not prepared for the Phase 3 services. The Bids were therefore based only on indicative prices. Bids were not included in the Evaluation Scoring but Bidders were expected to meet a threshold score of 3 for each of the Phase 3 services to demonstrate they had the ability to deliver these services.

### Critical analysis of the SSP

Southampton UNISON commissioned the European Services Strategy Unit (ESSU) to advise the Branch during the procurement process and to assess the bids with regard to their impact on staff, the City Council, service users and the local economy. The City Council made available certain parts of the bids as a result of an Information Agreement made between the City Council with UNISON and the ESSU. We did not have access to the detailed financial data in the bids but had access to confidential financial appendices in City Council reports.

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- *Analysis of Strategic Services programme Bid and an Alternative Strategy*, September 2006.
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### **Commentary on Variant Bids**

The Variant Bids from BT and Capita are basically condensing Phases 1 – 3 into a single phase plus adding some additional services within scope of the contract. Whilst it is an advantage to seek variant bids, in this case the contractors approach undermines the political decision made earlier in the year to split the project into three phases. The level of information provided by Serco, based on the information made available to UNISON, was significantly less than that provided by the other two bidders. This made it difficult to identify the proposals and their impact.

Capita's original proposals were based on exploiting the variant options contained in the ITN. The Cabinet decision in January 2006 was in effect to procure an incremental strategic partnership (as promoted by the government's strategic partnering taskforce).

However, the City Council was faced with one private sector option and outsourcing all the services – a big bang approach – and the incremental approach had been abandoned.

To this extent the procurement process had failed. The City Council was in a relatively weak negotiating position with the agenda being driven by Capita. The company wanted to establish a regional business centre in the Solent to serve its own commercial interests. It knew it was the only bidder. It knew that senior management in the City Council were committed to a SSP. It knew that the City Council was politically divided.

There has been no change in the shared services situation with only Havant BC having continuing involvement in the project. Many other local authorities and public bodies are likely to remain reluctant to join an outsourced shared service.

### **Capita imposed conditions**

Capita have imposed several conditions on the City Council:

- The provision of a new business centre is conditional on the inclusion of Property Services in the scope of the contract.
- The inclusion of the Procurement service is conditional on the inclusion of all currently proposed Phase 3 services within scope of the contract.
- The Gateway will only be refurbished if the contract includes the provision of a new business centre (probably because the refurbishment costs will be included in the annual lease of the new business centre).
- Capita has to date been unwilling to retain an up to date financial model. The report to Council and the Executive refers to this being unacceptable and "unless resolved satisfactorily early in the next stage" the SSP could not proceed. This must be agreed before appointment as a preferred bidder.

### **Whose project?**

It was clear from the original bids that the scope of the project is being dictated by Capita. Capita is not interested in an incremental approach to transformation and a strategy dictated by the needs of Southampton City Council services and council taxpayers.

### **Summary of criticisms of Capita's bid**

- No investment by Capita – the transformation is entirely financed by the City Council.
- There are no regeneration proposals.
- The inclusion of variant bids in the ITN has effectively undermined the Cabinet decision in January 2006 to proceed with an incremental approach to transformation. This simply opened the door to Capita to make proposals conditional on including all services in scope.

- Capita did not provide a full secondment model, instead it proposed a mixed choice model which was fundamentally flawed (see page 13, UNISON Analysis of Strategic Services Programme Bids, September 2006).
- Little or no progress with shared services agenda – only Havant BC has expressed serious interest although has yet to make a decision to be involved. This means that there has been no real change in the shared services agenda for over two years.

### **Stopping the procurement process**

There is no regulation which requires a local authority to award a contract at the end of the procurement process. If the bids do not meet its requirements, for example, by not providing value for money or meeting its stated requirements, then the City Council is free to decide not to award a contract. The City Council is not liable to refund the cost of tendering incurred by companies so long as they can show that the procurement process has been legally rigorous and the City Council has due cause not to proceed. This includes the risk of not achieving the savings to ensure affordability, the risk of additional costs, the failure to demonstrate a broad definition of value for money and/or that the longer term consequences of the SSP need further consideration.



## Part 2

# Financial analysis

### **The City Council is embarked on a high risk financial strategy**

The price for Phases 1 and 2 is higher than the Council's budget. Affordability is still not achieved even with planned savings which still leaves an affordability gap.

If Phase 3 is included, the bid assumes large savings and the project is totally reliant on achieving these savings to make it affordable.

### **Limited investment**

Capital investment of £25.2m over ten years, an average of £2.52m per annum, is only a relatively small percentage of the Council's capital programme. This is Council money paid to Capita as part of the annual revenue payments which the contractor uses to fund capital investment.

The Capita proposal includes investment in IT systems and infrastructure over 10 years. Although this is financed by revenue payments in a SSP this is not a large capital sum which could be financed through a variety of means by the City Council over 10 years. Newcastle City Council has financed its large and highly successful investment in IT infrastructure via a combination of prudential borrowing, leasing, business process reengineering savings and other financial measures.

### **Affordability**

#### **Phases 1 and 2**

There is only a small difference, less than two percent, between Best And Final Offer (BAFO) price for Phases 1 and 2 compared with the Public Sector Comparator (PSC).

The affordability of the contract hinges on achieving savings in other council services outside of the scope of the contract. Without these planned savings the council could not afford the contract. What this means in practice is:

- Procurement savings may be at the expense of sustainable development policies and local supply chains. For example, Print Services currently outsources 60% of its work to local print firms, however, the work will be transferred to Capita Print sites elsewhere in Britain resulting in a reduction in the local supply chain. The procurement savings will almost certainly run rough shod over the City Council's sustainable development policies. Procurement is not rocket science and savings can be made by using global supply chains but this is usually at the expense of local jobs, ignoring the impact of transport and other aspects of sustainable development. So the procurement savings are likely to be gained at the expense of City Council's sustainable development strategy.
- Any additional budget cuts or a public spending squeeze in the next ten years will put great pressure on the financial viability of the contract. In practice, it will mean that budgets cuts will have to be concentrated in other services as Capita will be guaranteed its annual contract payments.
- Capita may seek permission to offshore some of the Council's work in order to reduce costs and replace lost savings or to increase profits. Capita has a global sourcing strategy – its business centre in India employs 3% of staff, which will rise to 10% by 2009 (Financial Times, 23 February 2007).

### **Phase 3**

When the Phase 3 services are included in the contract the difference between the BAFO and PSC prices increases. The savings are larger primarily because of guaranteed savings from transforming procurement. The core difference between the two financial proposals arises because the PSC (in-house) procurement savings are assumed to be only half of those which Capita can achieve. This is highly questionable.

The Council can take some comfort that the procurement and some other savings are guaranteed but if Capita does not succeed in achieving these savings there are likely to be other consequences. Capita will seek to recoup any losses by rigorously using the change control, future services and other mechanisms in the contract to maximise financial opportunities. This is almost certain to mean additional costs for the City Council.

#### **Hidden costs**

Additional costs could arise in several ways:

**IT development costs** – The City Council could require additional IT development staff over and above that provided in the Capita contract. Additional costs seem almost certain.

**Accommodation** – The three-year accommodation timetable assumes that the Compulsory Purchase Order (CPO), site preparation, design, development and construction will be achieved within three years with no additional costs. Any delays will increase costs.

**Framework agreement** – A framework agreement and pricing mechanism has not been agreed and will only be agreed after the main contract has been signed. Given the pressure on local government and public bodies to increase shared services projects this puts Capita in a strong negotiating position with a signed contract and negotiating the terms on which other local authorities will join the SSP and draw down services.

**Client and contract management costs:** Client costs are often paired down in order to boost the savings forecast but have to be increased during the course of the contract.

**CRM/EDRMS** - Extra costs will be incurred if the City Council decides to extend the system to a fully comprehensive council-wide system.

**Other risks** – No contract is perfect and it is inevitable that omissions and changes in the volume/quantity of work carried out by Capita will result in additional costs. Capita is an experienced managed services contractor and will maximise such omissions, lack of clarity over responsibilities, gaps in service specifications and the need for new or additional resources, with a high degree of financial precision. They could also use the Change Control and Further Services mechanisms to widen the scope of the contract to try to increase contract security and profit maximisation. Whether the City Council has the capability to successfully negotiate with Capita to safeguard public and council taxpayers interests remains to be seen.

The combination of the different increased costs could significantly reduce or eliminate the financial advantage claimed for the SSP.

#### **Financial Model**

Capita has now agreed to maintain a Financial Model having previously refused to do so. Whilst Capita has 'moved' it is not clear what has been agreed. The wording of the report is vague and the extent to which Capita will fulfil the requirement of the Council has yet to be determined.

#### **Cost of out of scope services and client side organisation**

A report by PA Consultants notes that "outsourcing programmes often underestimate the time and effort involved in the design and implementation required for the retained organisation service delivery" and to manage the outsourcing relationship. The report identifies Full Time



Equivalent posts required for the out of scope service group structure and for a client side structure. No costs are identified.

'Partnership costs' have been included in the City Council's financial analysis and the client and retained structure costs are included in the Resources Directorate 2007/08 budget. However, a reduction in client side posts from 7 to 5 as a budget saving measure could have repercussions later in the contract.

Elected Members must have a full and comprehensive analysis of not just the cost of the SSP contract but the full cost to the Council of outsourcing services to Capita, managing the contract, the interface between in-house and outsourced services and how client responsibilities are fulfilled.

## Part 3

# Employment and pensions – staff sold out

### Introduction

At the start of the SSP process UNISON demanded that the City Council make a commitment to a secondment model. However, the City Council refused to make such a commitment but bidders were also informed that “the interests of staff and unions are paramount and key to the successful implementation of the SSP” (para 4.7.2, Volume 1, Section 1).

Bidders were required to submit two options as part of the Standard Bid and any Variant Bid. Option 1 had to be based on a secondment employment model with Option 2 based on a TUPE transfer. “Bidders are also encouraged and invited to propose any alternative model such as a hybrid or staff choices model as a Variant Bid (para 6.1.3, Volume 1, Section 2).

Hybrid employment models were requested only as part of Variant, not Standard, bids. However, the Council recognised that bidder might have their own form of secondment agreement which they wanted to use in a Standard bid. “Whilst the City Council does not wish to be overly prescriptive or rule out options prematurely, it does need to ensure that the Bidders’ secondment proposals are comprehensive and deal with all the key areas which are likely to be relevant to a secondment staffing model.” (para 6.2.1, Volume 1, Section 2, ITN, our emphasis)

### Commentary on the Bidders’ employment models

The first UNISON report assessed the employment options submitted by the contractors.

Only one bidder proposed a full secondment model in which all staff and new starters remain City Council employees for the duration of the contract (BT). The employment models put forward by Capita and Serco are both ‘choices’ models in contrast to the BT model for secondment to a JVC.

Both ‘choice’ models are a mixture of secondment and TUPE transfers with new starters directly employed by the contractor. In these circumstances, the level of secondment would decline as the contract proceeded.

We believe the ‘choices’ model is flawed. Although this option gives members of staff a limited ‘choice’ of employer only if the decision is considered to be a person one for each member of staff. The City Council as employer and provider of public services also has a key role in determining employment relations and safeguarding the public interest by retaining staff to maintain and increase the council’s capability, capacity and enhance its intellectual capital.

### Disadvantages of a ‘choice’ employment model

- Secondment gives staff a transitory status with the expectation that they will eventually transfer to the contractor’s terms and conditions.
- It potentially creates a three-tiered workforce consisting of seconded, TUPE transferred and new starters with differences in pensions provisions. Seconded staff would remain in the LGPS, TUPE staff may or may not be the LGPS but new starters are likely to be in the contractor’s own pension scheme.
- The Council reduces its capability because it will no longer have access to their skills and experience except through contractual relations with a private firm or the services are returned to in-house provision at a future date.



- Will be more costly to manage the different employment arrangements which could pressure a contractor to reduce or eliminate the secondment scheme.
- If a contract fails or parts of it have to be returned to in-house provision the secondment makes for a much easier and less costly transfer.
- Seconded staff are likely to be put under pressure later in the contract to transfer to the private contractor, particularly if they are in a minority as a result of transfers and new staff joining on the contractors terms and conditions.

The advantages of the 'choice' model for staff are that it may suit the different interests of staff, it offers the flexibility of secondment for those who do not want or have reservations about transfer to the private sector and allows them to take a 'wait and see' position.

### **Legal advice on employment models**

The City Council obtained a legal opinion from Nigel Giffin QC on the employment models. The City Council concluded that there was no business case for secondment. The interpretation of the Celtec case is that TUPE applies in all situations and that each member of staff has an individual decision, where a 'choice' model is available, to second or transfer to the new employer. This in effect means that the interests of the local authority are irrelevant since full secondment is ruled out and the ultimate position of staff is a personal decision regarding their self-interest. Obviously protecting the employment interests of staff is vitally important, which is one of the reasons why secondment is usually preferred to transfer.

UNISON's legal advice considered that secondment was still legal after the Celtec case. For example, Somerset County Council, Taunton Deane DC and Avon and Somerset Police Authority are currently in preferred bidder negotiations with IBM with a secondment model after 99.76% of staff voted for this option.

A local authority (or other public sector employer) also has an interest in retaining capability and capacity to carry out its statutory and corporate functions. Its staff play a crucial role in providing and retaining intellectual capital which provides the authority with the skills and experience to carry out its functions.

The City Council's response to the Employment Risk Matrix submitted by UNISON dismissed virtually all the risks and put the best possible gloss on private sector practice.

- 1) It created the impression that there is virtually no difference between public and private sector employment and that contractors carry out everything, which is in the contract. Such a perfect does not exist. The failure rate of SSP contracts and the substantial list of long delayed, over-budget and incomplete IT projects by private contractors is evidence which the City Council cannot afford to ignore.
- 2) The risk of changes to pensions is very real given the number of so called 'blue chip' companies, which have closed their final salary pension schemes in recent months. The LGPS may change contribution levels and/or changes in benefits but they do not face closure.
- 3) The loss of public service ethos extends far deeper than customer care referred to in the response. The 'culture and brand' of the partner organisation will be a private sector ethos. Companies bidding for SSP contracts view local government as part of a wider market in which they can engage profitably for the benefit of shareholders.

Capita has consistently refused to sign a full recognition agreement with UNISON. We understand that negotiations are currently being held on a new agreement.

### **Secondment and capability**

There are important advantages to seconding rather than transferring staff.



Firstly, knowledge or intellectual capital it only partially remains with the Council because a proportion of staff will opt to transfer.

Secondly, the partial retention of intellectual capital is transitory because the 'choice' model is designed so that more and more staff transfer rather than continue secondment.

Thirdly, the City Council must consider the question of intellectual capital as a continuing issue, not merely as an 'exit' issue, ie what happens when the contract is concluded or terminated. The City Council must also consider the long term, not just the parameters of a contract. It must consider its capability and capacity to carry out its statutory functions and other roles on behalf of its citizens, civil society and business, notwithstanding the current debate on 'commissioning organisations' which is simplistic and unlikely to be sustainable.

The government has undertaken four Capability Reviews to date and has developed a capability framework centred on leadership, strategy and delivery. However, this framework has certain limitations because it is very process driven. It does not include the capability to implement public service principles and values, planning and researching social needs, mainstreaming sustainable development and social justice and rebuilding public sector intellectual capital (see Table 2).

This framework should be used by the City Council to assess its approach to all large projects. Too often assumptions are made about public sector capability which underestimate its capability and understate the importance of retaining and enhancing organisational intellectual capital for the future.

Table 1: Capability review

Capability reviews	
Leadership	Set direction; ignite passion, pace and drive; take responsibility for leading delivery and change; build capability.
Strategy	Focus on outcomes; base choices on evidence; build common purpose.
Delivery	Plan, resource and prioritise; develop clear roles, responsibilities and business models; manage performance.
Additional elements	
Public service principles and values	Essential base for public service management.
Planning and researching social needs	Generic planning inadequate as specific skills needed to research and plan social needs.
Mainstreaming sustainable development and social justice	Government priority but not reflected in Civil Service approach and specific skills required.
Rebuilding public sector intellectual capital	Building organization intellectual capital omitted in Civil Service model.

Source: [www.civilservice.gov.uk/capabilityreviews](http://www.civilservice.gov.uk/capabilityreviews)

## Employment Risk Matrix

The Risk Matrix (Appendix 1) identifies the range of risks which are borne by staff in the Secondment, TUPE transfer and the 'choices' (mixed secondment and TUPE transfer) employment models promoted by some private firms.

The advantage of the secondment model is that it substantially reduces the risks of employment change which may occur when staff are transferred when a service is outsourced.

The Matrix assesses the level of risk of changes in four categories of risk:

- Risk of changes to terms and conditions of service



- Pensions arrangements (not covered by TUPE regulations)
- Risk of changes to staff consultation and representation
- Risk of problems with secondment agreement

Outsourcing via a transfer of staff effectively means that the local authority or public body is transferring a series of risks to their existing staff. TUPE transfers and the Best Value Code of Practice on Workforce Matter do not provide any guarantees. Pensions are not covered by TUPE. There is considerable change occurring in the pensions sector with private sector employers replacing final salary with money purchase schemes and a growing number of under-funded pension schemes.

Other risks are transferred to staff such as changes to terms and conditions of service, changes to staff consultation and representation, and to workplace conditions.

Table 3 identifies and compares the levels of risk borne by employees in the secondment, TUPE transfer and 'choice' employment models. The 'choice' model is promoted by some private contractors as an alternative secondment model although it is significantly different from full secondment.

The scoring of the Risk Matrix is summarised in Table 4. It shows clearly that 100% of the risks for the secondment model are in the none/low risk category compared to only 20% in the transfer model and 16% in the 'choice' model. The transfer model has 40% of the risk for employees in both the high and medium risk categories.

The overall effect of the 'choice' model will depend on the proportion of staff that second and transfer and how this changes over the length of a contract. Private contractors expect the proportion of secondments to reduce considerably or to zero as the contract proceeds. This would mean that in the later part of a contract the risk profile in the 'choice' model would change and become similar to the transfer risk profile.

#### **Commentary**

If secondment is not an immediate option then a TUPE transfer and 'choice' employment models impose significant and unacceptable risk on staff.

Whilst the City Council has emphasised that staff are an important asset, the City Council's response to the original Employment Risk Matrix makes a wide range of positive assumptions about private sector practice which are not borne out by evidence.

The complexity of the 'choices' model and different legal interpretations with the possibility of a challenge on the basis of a break in employment between a TUPE transfer and reemployment on secondment (there is a difference of opinion between the Council Solicitors and the Legal Opinion on this matter) adds to the considerable disadvantages of this model.

If the City Council continues to explore an option based on a TUPE transfer then this must be a TUPE Plus model.

#### **Capita's employment proposals**

UNISON's second report challenged the City Council's statement that "...the interests of staff and unions are paramount..." Where is the evidence to support this statement when the secondment option has been abandoned and the City Council proposes a standard TUPE transfer to Capita? This is wholly unacceptable to staff. Requiring Capita to join the Local Government Pension Scheme is important but this alone does not protect staff interests.

A TUPE transfer means that staff bear a high level of risk - 40% of which are high category risks and 40% medium category risks (see UNISON's report in September 2006). These risks are much greater than for secondment where all of the risks are in the none/low risk category. The City Council is attempting to deal with the risks to pensions but the risk of changes to

terms and conditions of service and changes to staff consultation and representation will remain.

Staff chose to work in the public sector and many have a long service with the City Council – but they are now being treated like commodities and transferred with little choice to a private contractor.

The 'Case for Change' table in Appendix A claims that the 'partnership solution' will have three benefits for employees – "greater opportunities for career development in a larger organisation, improved accommodation and higher investment in training" with the only risk being "cultural change to private sector focus." This is a partial, superficial, inaccurate assessment devoid of an evidence base.

### **Capita's employment proposals**

There is clearly evidence to suggest that Capita will take a minimalist approach to industrial relations. This reinforces UNISON's demand that if the project proceeds then it must be on the basis of a TUPE Plus transfer.

#### **TUPE PLUS transfer**

A commitment to a TUPE Plus transfer does not impose additional costs on the City Council but does require Capita to operate as a best value employer. This will be important anyway if the project is to be successful as a shared services centre in the Solent (excludes reference to Local Government Pension Scheme as this is dealt with separately below).

- Guarantee that TUPE will last for the length of contract (the regulations do not specify a time period). This is essential to protect conditions of service, existing redundancy payments and early retirement provisions. Any variation to conditions of service would only be introduced following a collective agreement with the appropriate trade union.
- New starters will be on the same/very similar terms and conditions and the company will not operate a two-tier workforce.
- The current job evaluation scheme would be applied for the duration of the contract.
- Annual local government pay awards will be implemented in full unless otherwise agreed with the recognised trade unions.
- No restrictions on staff promotion, for example, requiring transferred staff to transfer to the employer's own terms and conditions unless absolutely necessary because of nature of the work (see section on pensions below).
- The contractor will be committed to equal opportunities, work-life balance, whistle blowing and health and safety policies at least equivalent to the City Council's employment and corporate policies.
- The contractor will have a workforce development, education and training plan approved by the City Council.
- The current trade union recognition and facilities agreement must be maintained, unless changed by agreement, for the duration of the contract. This should cover new staff who must have equal opportunity to join a recognised trade union.
- The contractor gives an undertaking not to offshore work.
- The City Council must establish a system to monitor the employment policies and practices of the contractor as an integral part of the performance management and reporting process.



## **Pension**

UNISON welcomes the recommendation that Capita be required to obtain Admitted Body Status to the Local Government Pension Scheme (LGPS). This will enable staff to remain members of the LGPS although they will be employed by Capita.

However, it is essential that Capita be required to:

- Maintain membership of the LGPS for the entire length of the contract.
- Gives an undertaking to minimise the transfer of staff to a Capita pension scheme where staff are required to work on other projects.
- A mechanism be put in place which requires Capita to seek City Council approval for all transfers out of the LGPS other than for leaving or retirement.

## **Employment and the impact on staff**

UNISON's third report concluded that it was impossible to assess the employment impact of the SSP because the documents did not contain any information on the current staff who will be transferred to Capita, planned changes to staffing levels or job creation targets. The report and appendices contained:

- **No final employment data supplied in the July 2007 report.**
- **No equalities profile of the staff being transferred?**
- **No information about planned changes in staffing levels over the course of the contract**
- **No job creation targets**
- **No shared services targets**

It is unprecedented and inconceivable that elected members were being asked to approve a £290m contract bereft of this information.

The March 2007 report to Council/Cabinet indicated that over 500 Full Time Equivalent (FTE) posts in the Resources Directorate would transfer to Capita. A further 78 posts were vacant. In addition, many Customer Services posts in other directorates are also affected. About 650 full/part-time jobs will be transferred to Capita.

This raises a number of important questions:

- Why have details of the number of jobs/people (in each directorate/total) to be transferred to Capita been not been included in the July 2007 report?
- Why has an equalities profile of the staff being transferred to Capita – gender, age, race, disability – not been included in the report? The March 2007 report only referred to FTE posts which is crude and makes a mockery of the City Council's equalities policies.
- Why does the report not contain a forecast of the anticipated annual changes in staffing levels for the contract period? This is basic information which a public sector employer would be expected to consider as part of a decision to award a multi-million pound contract and has been supplied in SSP projects in other local authorities?
- Why have job creation targets not been included in the report – does this reflect that no job creation targets have been set for the contract?
- Why have shared services income and employment forecasts not been included in the report?

This is a very serious abrogation of the Council's employment responsibilities. There is a strong case to be made that the exclusion of this information makes it impossible for the

Council or the Cabinet to make a decision approving the award of contract. It also raises questions about the City Council's commitment and capability of monitoring Capita's implementation of the Best Value Code of Practice on Workforce Matters vacuous.

### **HR concerns at evaluation**

Despite City Council statements that staff and unions are "paramount and key to the successful implementation of the SSP" the actual consideration, care and equalities awareness demonstrated in the SSP, as reflected in the series of reports to Council/Cabinet, has been negligible.

UNISON's March 2007 response to the evaluation of Capita's Best And Final Offer reported that the company scored only a 2 out of 5 ("achieves basic minimum standard, some concerns") in terms of the acceptability of the bidder's approach to staff – recruitment, retention, training, industrial relations). It also reported that Capita was marked down because of concerns about its commitment to collective bargaining and negotiation. It also scored only 3 out of 5 for handling the transfer of staff, two-tier workforce, the acceptability of the Bidder's approach to equality and diversity issues for staff.

The July 2007 report to Council/Cabinet now states that the "*concerns about the acceptability of the Bidder's approach to staff recruitment, retention, training and industrial relations.....arose primarily from lack of information at BAFO stage, rather than specific concerns about the proposed approach*" (paras 33 and 34). This appears to be implying that the evaluation process was less than rigorous.

The report states that:

*"these concerns have now been thoroughly investigated through site visits and discussions with Capita employees; a full review of the Capita staff handbook which sets out their approach to staff management and extensive discussions on their approach to the development and management of employees working on Partnership contracts. The Head of Human Resources is completely satisfied that Capita's approach to management is appropriate to deliver the specified services and will not disadvantage transferred employees.*

*Capita's relationship with unions has been explored and Head of HR has met with Capita Union representatives, as well as talking to employee union members. The Head of Human Resources is satisfied that Capita work well with their union representatives and have a good relationship. ....The Head of Human Resources is also satisfied that Capita have overcome earlier concerns on the HR service provision."*

Despite the City Council's responsibilities for its employees, it has shown scant regard for their interests. The only positive policy has been the requirement for Capita to seek Admitted Body Status to the Local Government Pension Scheme. We urged the City Council in our March 2007 report to ensure that Capita is committed the LGPS for the entire contract period.

The City Council has never been committed to a secondment model and ignored the transfer of risks to staff (UNISON, 2006). It has rejected demands for a TUPE Plus transfer (UNISON, 2007) and is proposing a standard TUPE transfer to a private contractor which has very little respect in the trade union movement (and beyond) because of its track record.

And just who did the Head of HR consult and who arranged the meetings with Capita employees and union representatives, and in which local authorities? This has all the hallmarks of complacency.

The City Council's approach raises wider questions about its practices and policies in future procurement and transfer situations. Statements about 'valuing staff' and safeguarding their interests have little credibility. The City Council must quickly reassess its procurement strategy and develop protocols, which prevent similar situations arising in future.



## Part 4

# Risks for the City Council

UNISON's second report highlighted the very significant risks. For example, the Audit Commission identified a number of risks for the City Council. These relate to:

- Whether the offer from Capita is in the best interest of the Council and whether it is affordable.
- Whether there is sufficient technical development in the bid.
- The lack of clarity over the scope of EDRMS and financial risk to the Council.
- The risk of IT development cost escalation because it will negotiating with a monopoly supplier.
- Capita's unwillingness to retain an up to date Financial Model will leave
- Danger of making inconsistent decisions not based on business reasons.
- Risk of bearing costs of withdrawal other than for business reasons.
- Capita has not included a price/cost for accommodation but if buildings are not vacated when needed and no costs are incurred otherwise project savings could be substantially smaller.

Of course, there are other risks which are borne by staff and service users. Elected Members are reminded that the TUPE regulations and the Code of Practice on Workforce Matters do not provide guarantees. There is also a 20% risk of failure of the SSP (based on 25 operating SSP contracts and the termination of two contracts in 2005 and major changes in others.

### Legal risks

The Local Government Act 1999 requires the City Council to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

The extent to which the council has met this requirement is qualified on two points. Firstly, it has only assessed the impact of certain functions and has failed to examine whether best value has been achieved in overall terms.

Secondly, it has focused on economy and efficiency but has not fully examined the effect of the proposals on the effectiveness of services and its functions.

Thirdly, the report to Full Council and the Executive refers to consultation with trade unions and staff and with Havant Borough Council. However, no consultation has been carried out with services users.

UNISON's third report again raised critical questions about the level of risks.

### Termination risk

The City Council has reached agreement with Capita to assist with the affordability gap in the early stages of the contract. This includes smoothing the payment of investment costs over the 10-year contract term and deferring some income payable to Capita from the early years until the latter part of the contract. However, this assumes the contract runs entirely according to plan for the full ten years. If service performance is not maintained or other problems arise and the City Council has to consider returning some services to in-house provision or to terminate the contract, the City Council could face a costly and complicated process.

Back-end loading of the payment profile would require the Council to 'make up' for the lower payments in the early years of the contract if the contract were to be terminated. The Council would also have to re-acquire certain assets.

All projects have risks but to use the 'lack of experience' and 'separate procurement processes unlikely to lead to an integrated approach' arguments against an in-house option is a distortion of reality. The City Council to July 2007 Council/Cabinet claims that there 'far greater risks' with implementation of an in-house model. No evidence is supplied to justify this claim.

### **Limited guaranteed savings**

If retained side savings are more difficult or take longer to achieve than anticipated then there will be pressure to increase procurement savings which could lead to further outsourcing of services and/or global sourcing of goods and supplies with further erosion of sustainability principles.

### **Client side risks**

Resource and information constraints mean that it is not possible to comment on the adequacy or otherwise of the client side arrangements. However, some SSP local authorities have been compelled to increase client side staffing once the contract has commenced. The additional cost imposes another potential risk to the savings timetable.

### **Shared services risk**

Since the framework agreement has not been completed no other local authority or public body can participate in the SSP. In any event, only Havant has expressed an interest despite the fact that it is open to public sector bodies in the County, Unitary and District Council areas of Hampshire, Dorset, East Sussex and the Isle of Wight. This not a very auspicious start for the project! UNISON's March 2007 report outlined the reluctance of most local authorities to outsource services to SSPs.

### **Framework agreement**

Because the framework agreement has not been agreed, other local authorities and public bodies cannot sign shared services agreements. There remains a major question mark over the extent to which other organisations will want to join the partnership to obtain services. The track record of SSP business centres is obtaining additional work and creating employment has been very poor (UNISON, 2006).

### **Risks arising from lack of impact assessment of the SSP**

The September 2006 and March 2007 reports to Council/Cabinet were devoid of any discussion of the wider implications of the project with respect to community well being, sustainability, social justice and local economy (UNISON, 2007). The Council admitted this in approving the public version of UNISON's report in March 2007. The July 2007 report similarly fails to assess the wider implications of the SSP project. This means that the City Council has still not assessed the impact of the SSP with regard to:

- Local economy impact
- Community well being
- Contribution to regeneration and development
- Growth/decline in employment
- Sustainable development
- Contribution to regional strategies and economic development.
- Scope for increased collaboration and shared services



- Impact on production and supply chains.

A revised City of Southampton Strategy (Community Plan) is being discussed at the same Council July 2007 meeting which implies that there are some fundamental gaps in the Southampton approach.

#### **Risks linked to the limitations of customer service/call centres**

The City Council is committed to improving access to services, widening the choice of communication methods and increasing the coordination/joined up delivery of services. Important as this is, there is a danger that the current focus on 'customer access' is likely to change as other demands and the limitations of improving access are not met by improvements in the 'outcomes' achieved by those accessing services.

A number of issues could arise such as the relative priority given to customer services/call centres compared to the needs of core frontline services may change. The relative capital and revenue costs of customer services/call centres compared to frontline service delivery needs in education, social care, housing, leisure and other services may also be challenged.

The quality of customer service/call centres are ultimately only as good as the quality of education, social care, housing and other services and functions provided by the City Council. Furthermore, there are many questions over the future role of customer service/call centres in implementing the choice agenda – with the danger of centre being used in rationing and brokering – thus limiting their contribution to community cohesion. Improved customer access may only marginally improve people's perception of local government, particularly if they are regularly transferred or referred to trusts, arms length companies and contractors.

#### **Transfer of risk to private sector**

Reference is made to the degree to which the City Council will transfer risk to the private sector. It is clear from the above analysis that **some** risks, such as two thirds of the planned savings, are transferred to the private sector but many are not. Equally important is the degree of difficulty in achieving savings and how this risk is distributed between the City Council and Capita.

## Part 5

# Narrow evaluation criteria and challenge on value for money

### Introduction

The City Council's evaluation criteria were narrowly defined and grouped into level one and level two. Level one included price, affordability and commercial issues and an assessment for each service such as customer services, IT, property, HR and payroll services. Level two criteria covered risk allocation, value for money, price and affordability, ability to fund investment, payment and performance mechanism and commercial issues (See Appendix B and Volume 1, Section 2, Instructions to Bidders, Invitation To Negotiate, Southampton City Council, February 2006).

### Results of evaluation

The evaluation identified the weakest areas as:

- Value for Money (Price Affordability)
- Management and Organisation Overview (Core Issues)
- Competence (Customer Services) for track record reflecting Capita's lack of experience in provision of a broad range of services as required by the City Council.
- Partnering Relationship (Local Taxation) partnering ethos.
- Service Users Care (HR Advisory) ability to identify the full range of service users needs and concerns and approach to delivering continuous improvement.
- Risk Allocation Level 2 (Procurement) acceptable levels of risk and liability being shared by Capita.

The bid was judged to be 'satisfactory and acceptable' according to the criteria established by the City Council.

However, Elected Members must decide whether expenditure over ten years on a project at this stage which is only 'satisfactory' can be justified. There appears to be a credibility gap between the evaluation scores and claims made for proceeding with a SSP.

### Narrow criteria

The evaluation process did not examine the impact of the bidder's proposals with respect to:

#### *Local/regional economy and sustainability*

- Scope for increased collaboration and shared services
- Growth/decline in employment
- Local economy impact
- Community well being
- Contribution to regeneration and development
- Contribution to regional strategies and economic development
- Impact on production and supply chains
- Avoidance of offshoring



### *Accountability and control*

- Democratic accountability, governance and role of elected members
- Reporting arrangements
- Management accountability
- Scope for internal/external user and community involvement in policy and provision
- Staff and trade union involvement and industrial relations framework
- Transparency and disclosure

The evaluation is inward looking being primarily concerned about whether the bidders proposals are acceptable within the narrow terms of the evaluation criteria.

The September 2006 and March 2007 reports to Full Council and the Executive are devoid of any discussion of the wider implications of the project with respect to community well being, sustainability, social justice and local economy

Since the evaluation process did not consider these issues the City Council cannot make a substantive statement as to whether the contract provides best value or even value for money because it has not considered all the factors relating to community well being and sustainable development.

Elected Members have not been given all the facts and information on which to make a judgment whether the City Council will obtain best value and value for money in awarding Capita preferred bidder status.

### **Governance**

UNISON has a number of comments on the governance arrangements for the SSP contained in Appendix 4 of the July 2007 report to Council/Cabinet.

### **Transparency of the three Partnership Boards**

It will be vitally important that there is a flow of performance reports and change control/further services business plans within the organisational structure of the partnership. All elected members must receive regular progress and performance assessments to avoid the centralisation and secrecy which has been so prevalent in many SSP in other local authorities.

### **Scrutiny**

Whilst the report refers to Scrutiny in the organisational structure, no specific role is designated. It is essential that the role and frequency of Scrutiny's assessment of the SSP should be made clear to Capita at the outset. Scrutiny should have a key role in regularly assessing progress and analysing the performance of the SSP contract engaging all stakeholders in the process.

### **Trade union involvement**

The organisational structure indicates that trade union representatives will be able to attend the Partnership Transformation Board and the Partnership Operations Group, presumably as observers. However, it has since emerged that there has been a policy reversal because UNISON participation in the Partnership Operations Group is now regarded as a 'mistake'. Trade union involvement in governance has not been resolved.

Clarity is urgently needed on the proposals for trade union consultation and how they can make representation to, and it necessary submit evidence, to the SSP. In addition, negotiations are needed to agree the industrial relations framework for staff transferred to Capita and continuation of Branch representation.

### **Stakeholder involvement**

Whilst there is reference to 'stakeholders' which would presumably include service users, there is no specific reference to their role in assessing overall performance and governance matters. Given the scope and length of the contract, it is important that service users and community organisation representatives are engaged in the SSP. The government is heavily promoting 'community engagement and empowerment' but there seems very little evidence that this permeated the plans for the governance of the SSP.



## Part 6

# Performance of SSP contracts

### Introduction

Establishing a SSP has many risks for the Council, staff, service users and not least the selected contractor. To date three SSP type contracts have been terminated only three to four years of the contract by local authorities because of poor performance. A fourth contract is being substantially reduced in scope and many staff being transferred back to the local authority. The second phase of a fifth contract has been cancelled after it was discovered that the savings, and hence affordability of the first phase, were grossly overstated. This section is a brief summary of these projects (see Table 6).

Table 3: Failed SSP partnerships

Failed Strategic Service-Delivery partnerships in local government	
1. Bedfordshire County Council	Terminated contract with HBS Business Services in 2005 after failure to achieve key deliverables and poor performance.
2. West Berkshire Council	Terminated contract with Amey Group in 2005.
3. Redcar & Cleveland Council	Following a 'strategic review of services' HR and Payroll, Finance and Accounting, ICT, Public Access and Business support will be brought back in-house by September 2006 after only 3 years of the 10 year Liberata contract.
4. London Borough of Southwark	Education Services contract with WS Atkins terminated because of poor performance.
5. Swansea City Council	Savings exaggerated and not achieved in Phase 1. Phase 2 of contract abandoned (CapGemini)

European Services Strategy Unit, 2006.

### Bedfordshire County Council and HBS

The Strategic Service-delivery Partnership (SSP) between Bedfordshire County Council and HBS Business Services was terminated by the County Council in August 2005. Nearly 550 staff were transferred from HBS back to the County Council.

A review of contract performance in 2005, '*Strategic Partnership in Crisis*' prepared by the Centre for Public Services for Bedfordshire UNISON, produced a HBS Scorecard which showed that several key deliverables had in fact not been delivered and quality had declined in some services.

Table 4: HBS Scorecard in Bedfordshire

Key Deliverables	SCORE
Best Value	Performance is down on four Best Value Corporate Health indicators
Front line services first	Quality of service declined (BVPIs)
A new partnership	New partnership created but whether it works and is necessary is questionable.
A Regional Business Centre	No evidence of centre and no reporting of new contracts or jobs.
A customer contact centre	Opened and operational
Improved accommodation	Promised £7m investment only part spent on the Contact Centre and HBS offices on the 6 <sup>th</sup> floor.
Improved training provision	Maryland College closed

Financial savings	<b>Council has incurred substantial additional costs for HBS partnership and unclear whether original savings target has been met.</b>
Quality and competitive support services for schools	<b>Quality of schools support services in decline. National Centre of Excellence delayed and may never be established. Failure of SAP pilot for schools.</b>
Corporate issues	<b>"The strategic partnership is not delivering improvement in services"</b> Annual Audit and Inspection Letter, District Audit, January 2005. <b>Failure to publish Council 2003/04 Accounts on time partly blamed on arrangements with HBS.</b> <b>"The Council has not yet been able to gain capacity from its strategic partnership"</b> Comprehensive Performance Assessment, 2004, Audit Commission,

The council took over all HBS services, all the staff and assets involved in the delivery of those services. It paid HBS £6.75m to purchase assets such as IT, furniture and fittings and to acquire goodwill, contracts and services provided by HBS, including to schools and other organisations. This document sets out the rationale for terminating the contract and the terms of the agreement.

#### **West Berkshire Council and Amey Group plc**

In June 2005 West Berkshire Council terminated a £168m Strategic Service-delivery Partnership with Amey plc. The contract, for IT and corporate services, had only completed three of the ten year contract period. Amey plc agreed to pay £3m to the Council as part of the settlement agreement.

#### **Redcar and Cleveland Council and Liberata**

Following a 'strategic review of services' HR and Payroll, Finance and Accounting, ICT, Public Access and Business support will be brought back in-house by September 2006 after only 3 years of the 10 year Liberata contract. Only 120 of 650 staff will be retained by company to continue to provide Council Tax, Revenues, Housing Benefits and Consumer Direct (Government business).

The Main Overview and Scrutiny Committee decided to investigate Liberata's IT Refresh programme in 2005. However, the Committee discovered that there was no IT asset register and that Liberata had failed to deliver on its undertaking to complete the register in February 2005. The register was a precursor to the development of an effective IT refresh programme. The Committee referred the matter to the Joint Partnership Board for urgent action.

The Children's Services Overview and Scrutiny Committee investigated the performance of Education ICT in 2005 in response to a number of concerns expressed by Members, Head Teachers and officers. It focused on the technical support to schools. The Committee made a number of recommendations which are indicative of the problems encountered by schools as a result of a lack of strategy and poor ICT delivery.

The Committee demanded that a Children's Services Information System strategy be developed together with an Education ICT Strategy for Schools. It also recommended that an Education ICT group of head teachers be formed to develop partnership working with Liberata, that an Education ICT Officer be appointed, a review of Education ICT is undertaken and Liberata be required to draw up a timetable of work and an inventory of equipment. Urgent action was required to ensure every school had broadband access and every school



should have an Education ICT Service Level Agreement which should "include information regarding the effects of considering other providers" (Redcar & Cleveland, 2006).

#### **London Borough of Southwark and WS Atkins**

The £100m education contract to operate the Local Education Authority (LEA) was terminated after two years of the five-year contract. Atkins failed to meet several key targets and claimed the contract was unprofitable. The contract termination cost Southwark Council £1.5m.

#### **Swansea City Council**

The City Council signed a £83m contract with Capgemini in 2006 to transform IT services and promising £70m savings over ten years. However, a year later the contract was reduced to a £40m project with the abandonment of phase 2. An investigation by the external auditor, PricewaterhouseCoopers, revealed that only £6m savings had been achieved even from the reduced contract which had claimed £26m savings. Furthermore, the City Council had transferred only 5% of the risk of failing to meet savings targets to Capgemini. The City Council, Capgemini and UNISON representatives had agreed a secondment model for staff during the preferred bidder negotiations but this was overturned only hours before the Cabinet meeting approving the contract.

## Part 7

# Alternative strategy for Southampton

### Introduction

All three UNISON reports stressed that there was an alternative strategy available to the City Council.

The first report argued that the SSP process should be terminated and in-house approach adopted. This section describes how this could be done together with examples of other local authorities which have stopped the procurement process for a SSP at different stages to adopt a successful in-house strategy.

### Services today

The current performance of City Council services provided a strong basis for an in-house strategy:

#### *IT Service*

"the service is rapidly improving. The infrastructure is being brought up to modern standards and the majority of desktop PCs have been replaced." Costs are "on par with other councils". "Quality, as far as is measured, seems to be good...."

#### *Property Services*

"...a service which performs well on a range of performance indicators...Satisfaction levels with the main elements .....are generally high and steadily improving."

#### *Customer Services*

"...examples of excellent customer service throughout the Council but this is not consistent" and requires central coordination with a common system.

#### *Human Resources*

"...located across four buildings" leading to inconsistency in the ways issues are handled and much scope for self-service facilities and better use of management information.

#### *Local Taxation and Benefits*

"Service improvement is underway....and this is resulting in improvement in performance." However, performance in 2005/06 dealing with new benefit claims, recovery rates in local taxation and NNDR was below the average for unitary authorities.

#### *Procurement*

"Ordering processes across the City Council are out of date, slow and labour intensive." Other local authorities have improved procurement processes and achieved savings.

**It is clear that an in-house strategy could achieve some quick wins and commence the process of change and performance improvement in several services.**

### Financing the alternative option

Local authorities which have rejected the SSP model and developed an in-house strategy for service improvement have used a combination of funding sources. These include revenue savings from Business Process Reengineering – the application of ICT and changes in work systems and practices results in job reductions and savings which can in turn fund further investment; prudential borrowing – good performing public bodies are allowed to increase



investment based on their ability to meet loan charges; leasing arrangements; the capital investment programme; various government programme and project grants; and the use of reserves to pump prime initial investment.

The combined use of these resources has enabled some local authorities to restructure services in-house and procure 'best in class' ICT advice, hardware and software as and when required as part of an in-house approach as an alternative to the SSP model.

One example is Newcastle City Council which retained ICT and related services in-house following a SSP procurement and recently awarded it's City Service the Building Schools for the Future ICT managed service following competition against major ICT companies. We understand that Newcastle City Council and other local authorities which adopted a similar approach are willing to share their experience and best practice with the City Council.

The Southampton's Public Sector Comparator included the cost of a transformation team, transition costs, consultancy and back-filling posts for the in-house option.

The £25.2m capital investment over 10 years can be funded through a variety of means including prudential borrowing. The July 2007 Report to Council/Cabinet refers to the likelihood of prudential borrowing being the main source "which will have the same effect of smoothing the payments over the life of the contract" which is proposed in the Capita contract. In other words, there is little financial difference between these funding methods.

### **Shared services strategy**

The City Council should develop a public sector Solent Shared Services Strategy with Havant BC and other neighbouring local authorities. It is likely that other local authorities will be more enthusiastic cooperating with the City Council directly than joining a private sector project which they had not been involved. There are a number of reasons to support this view:

- Lack of involvement by other public bodies in the scope and design of services.
- Little or no opportunity for collaboration, lead authority and joint approaches to shared services beyond corporate and transactional services.
- Reduced democratic accountability and control over service provision;
- Loss of local employment with a negative impact on neighbouring local economies;
- Capita's aggressive commercial attitude to the provision of public services;
- Regional trade union opposition to Capita;

The Comprehensive Spending Review 2007 Interim Report indicates that the shared services agenda will be accelerated and those authorities which have been reluctant to participate to date will be under increasing pressure to do so (HM Treasury, 2006).

The City Council should immediately:

- Redirect the ISiS team, together with other required skills, to form an in-house team.
- Divert the expenditure planned for the SSP to this new project team.
- Plan and design an in-house strategy drawing on the experience of Kent, Newcastle and other local authorities which adopted an in-house approach. This would include:
  - an affordable implementation plan;
  - a capability review to determine which elements of the programme could be obtained in-house and which require sourcing using 'best in class' procurement;

- A joint officer/Elected member approach to other local authorities and public sector bodies in the Solent to seek their involvement in a genuine public sector shared services strategy.
- An implementation plan which was geared to affordability and capacity to deliver to ensure that the project achieved maximum effectiveness and there is no negative impact on frontline services.

The second UNISON report argued the case for in-house transformation. The City Council should prepare an in-house transformation plan by:

- Organise a team to be responsible for planning and implementing the transformation of services.
- Adopt and amend the specifications and proposals prepared during the procurement process for the SSP.
- Identify resources and sources of finance – see below and prepare an investment plan.
- Draw up a new shared service strategy which includes collaboration, lead authority and joint provision strategies which are more likely to engage other authorities and public bodies in genuine shared services strategies in place of a Capita-private sector led approach.
- Identify which elements can be developed using existing capability and skills and which require external sourcing using best in class techniques.
- Establish a protocol to engage staff and trade unions in the implementation of strategies and projects.

### Incremental approach

An incremental approach has many advantages over the large 'big bang' approach favoured by the private sector. The Government's Strategic Partnering Taskforce believed that an incremental approach reduces risk to the local authority and providers, is possibly less costly to establish for all parties, provides an ongoing incentive to cooperate and assess value for money of each project, and allows partners with differing skills and strengths.

### Examples of other local authorities adopting the in-house approach

Ten local authorities have considered a SSP, and in some cases reached the preferred bidder stage in the procurement process, before deciding that an in-house approach provided value for money and was affordable (see Table 8).

Table 5: Local authorities which adopted in-house option instead of an SSP

Local authorities which retained in-house provision	
Kent County Council	Terminated preferred bidder negotiations with HBS Business Services. Established in-house improvement strategy.
Northamptonshire County Council	Withdrew during procurement process from joint partnership with Milton Keynes Council.
Newcastle City Council	Awarded £200m to in-house service and rejected rival BT bid on grounds of value for money and quality of service improvements in 2002. In 2006 the City Council excluded ICT from the BSF project following a mandatory bid in which the in-house service scored significantly better than the BSF consortia.
Barnsley MBC	Decided not to proceed with BT bid in May 2003 because first three year payments could not be



	guaranteed. Risk of frontline services being cut to meet contractually-binding investment requirements.
<b>Salford City Council</b>	Decided against SSP approach for corporate services and did not commence procurement.
<b>Walsall MBC</b>	£650m project requiring transfer of 1,500 staff to Fujitsu Services abandoned in January 2006 at the preferred bidder stage. Planned to create 750 new jobs. Council said "strong service improvements" achieved by the local authority in the past few years, felt that "it is now better placed to meet the needs of local people without the joint venture."
<b>Wakefield MBC</b>	Decided not to pursue a SSP after research of Liverpool, Newcastle and Middlesbrough. The former Chief Executive from Middlesbrough joined Wakefield and made the case that the market had moved on and that Middlesbrough was able to secure a 'golden deal' at the time. However, Wakefield's healthy financial reserves meant that a mixed economy approach would be more effective.
<b>Dacorum District Council</b>	Withdrew from preferred bidder negotiations.
<b>Isle of Wight Council</b>	Decided to adopt an internal strategic transformational approach drawing on private expertise instead of outsourcing to a strategic partner.

Source: European Services Strategy Unit, 2006.

UNISON's second report continued to make the case for an in-house strategy.

### **UNISON cooperation**

The UNISON Southampton City branch would seek the involvement of staff and the branch in an in-house transformation and shared services strategy and would cooperate with initiatives which improved the effectiveness of services.

Lower client costs for in-house as avoidance of contract management and separate governance arrangements

### **Procurement**

The July 2007 Council report claims that an in-house strategy would require the Council to undertake more individual procurement exercises to acquire and implement new systems and that this piecemeal approach will be at "far greater cost and over a much greater timescale." This statement is unfounded and ignores the advantages of obtaining best in class from suppliers instead of being tied to one contractor for a decade or more. There is no evidence that local authorities with in-house strategies have incurred 'far greater costs' than those who outsourced. Local authorities have implemented transformation successfully in-house broadly on target. Clearly, the City Council has not examined the delays in project implementation which have occurred in many outsourced SSP projects.

### **Capability**

The claim that "the Council does not have the experience of implementing these systems" is a very broad statement to give the impression that the city council is dependent on Capita. It deliberately plays down the capability of city council staff. Of course, the city council would need to draw on external expertise to implement some of the transformation systems but it could do this either through a partnership contract or on a as when basis. It would appear that

the city council has not sought the advice and experience of those local authorities which have implemented transformational change in-house.

Capita does not have the experience of implementing transformation in Southampton and many issues will arise during the process which are particular to the City Council.

#### **A way forward**

The Council should form a team to develop to take forward the transformation strategy already developed in the procurement process and later negotiations with Capita. This should include undertaking a capability assessment so that the Council has a clear understanding of the skills and capacity needed to implement the transformation plan.



## Part 8

# Recommendations

### Conclusions

UNISON's first report made concluded:

- Major questions about the affordability of the programme – there is a £7.2m gap on Capita's standard bid alone. There is less than a million pounds difference between the Public Sector Comparator and Capita's bid.
- The private sector will only invest a relatively small sum in a Regional Business Centre which they will own and operate and recoup the cost through leasing back to the City Council.
- The vast bulk of the claimed savings promised by the two leading bidders are conditional on Property Services, Human Resources and Revenue and Benefits being Phase 1 services which contradicts the City Council's decision earlier in this year for a phased approach.
- The Bidders enthusiasm for the inclusion of Property Services and the higher level of claimed savings indicates that the private contractors will also be making significant profits from the inclusion of this service.
- The ITN assumed that the Bids would allow the City Council to reduce its accommodation needs and cost. Neither the Capita or BT bids allow any savings, in fact both will involve a major accommodation exercise to relocate Council staff from Southbrook Rise and co-locate staff involved in the partnership. This will involve "considerable disruption.....across the whole council" and cost.
- The bidders are devoid of any proposals to increase employment except for vague statements.
- The bidder regeneration proposals are weak and rely solely on property-led regeneration.
- Only BT is committed to a full secondment model which the City Council believes is not a legal option. The TUPE and the 'choice' employment models impose significant and unacceptable risks for staff.
- Continuing the procurement process will have a negative impact on Council Services as detailed in Appendix F. Other important strategic work will be at a standstill. The work required in Property Services will be extensive in order to accurately estimate whether the Bids are affordable and in the Council's interest.
- We have not seen the details of the risk assessment. This usually benefits private sector bids because of the assumptions about risk transfer. The transfer of risk is frequently exaggerated as demonstrated by most PFI and SSP projects. The political risks of service failure cannot to transfer to the private sector. Elected Members should not be misled over the mathematics of risk transfer.
- The proposed exclusive negotiations with Capita cannot be justified given the above conclusions. Whilst the BT and Serco bids should not be taken further for financial/quality reasons, the Capita bid is conditional and has many limitations noted above. The option of "Abandon the process and look towards in-house improvements" in Appendix A should be taken now rather than in January 2007 after which the City

Council has used more resources in the procurement process when another viable option is available to it.

- The inclusion of the Capita summary document in the report to Council and Cabinet (Appendix C) is questionable. This document presents a series of savings statements and business growth which merge the Standard and Variant bids and exclude all reference to the conditions imposed by Capita in order to achieve these benefits.

#### **Recommendations in UNISON's first report**

- 5) The Strategic Services Programme procurement should be terminated and an in-house strategy should be developed as outlined in Part 6.
- 6) The City Council should develop a public sector Solent Shared Services Strategy with Havant BC and other neighbouring local authorities.
- 7) It should retain the agreed incremental approach to the project starting with Phases 1 and 2 and only progressing to other services following rigorous appraisal and evaluation.
- 8) If the City Council decides to proceed with the procurement process it should further investigate the legal implications of a full secondment model.

#### **UNISON's second report recommended that the City Council:**

1. Does not appoint Capita as a preferred bidder for the SSP.
2. Agrees prepare an in-house transformation plan which adopts and amends the specifications and proposals prepared during the procurement process for the SSP. This would include a resource and investment plan and identify which elements can be developed using existing capability and skills and which require external sourcing using best in class techniques.
3. Draw up a new shared service strategy which includes collaboration, lead authority and joint provision strategies which are more likely to engage other authorities and public bodies in genuine shared services strategies in place of a Capita-private sector led approach.
4. Engage staff and trade unions in the implementation of strategies and projects.

If the SSP proceeds:

- The City Council must ensure that the SSP is based on TUPE Plus transfer.
- It is essential that Capita be required to maintain membership of the LGPS for the entire length of the contract, give an undertaking to minimise the transfer of staff to a Capita pension scheme where staff are required to work on other projects, and a mechanism is put in place which requires Capita to seek City Council approval for all transfers out of the LGPS other than for leaving or retirement.

#### **UNISON third report recommended:**

1. The City Council should not award the Strategic Services Programme to contract to Capita Business Services Ltd.
2. The City Council should use the work undertaken in the SSP to date to develop an in-house transformation strategy and implementation plan.
3. The City Council should prepare a shared services plan jointly with other local authorities and public bodies in the Solent. This should be based on principles of quality of service, democratic accountability and transparency and quality employment. A progressive shared services strategy will have a vision of, and commitment, to collaboration, lead authority and jointly managed services projects.



4. It should involve staff and trade unions in the planning, design and implementation of the transformation plan through service improvement workshops, secondments and other initiatives to harness staff ideas and commitment to change.

The City Council awarded the SSP contract to Capita Group plc on 18 July 2007. Southampton City UNISON branch made a presentation making the case against the award of the contract but the Conservative and Liberal Democrat groups voted to award the contract.

## Appendix

# Employment Risk Matrix

Table 6: Employment Risks in Secondment, Transfer and 'Choice' Models

Risk	In-house or Secondment	TUPE Transfer	'Choice'
<b>Risk of changes to terms and conditions of service</b>			
<b>Risk of changes to staffing levels after transfer without staff agreement.</b>	<b>No risk</b> because of Change Control Procedure in Secondment Agreement	<b>High risk</b> Code of Practice on Workforce Matters does not prevent changes over time.	<b>Medium risk</b> Code does not prevent changes over time but will not affect seconded staff.
<b>Risk of changes to terms and conditions of employment.</b>	<b>No risk</b> as staff remain on local authority terms and conditions	<b>High risk</b> Code of Practice on Workforce Matters does not prevent changes over time.	<b>Medium risk</b> Code does not prevent changes over time but will not affect seconded staff.
<b>Risk of not meeting annual pay award in full and on time</b>	<b>No risk</b> as staff remain on local authority terms and conditions	<b>Low risk -</b> Code of Practice on Workforce Matters should prevent it happening.	<b>Low risk -</b> Code should prevent it happening and will not affect seconded staff.
<b>Risk of changes to the composition of pay and benefits such as holidays</b>	<b>No risk</b> as staff remain on local authority terms and conditions	<b>High risk</b> Code allows contractor to change mix of pay, holidays and pension.	<b>Medium risk</b> Code does not prevent changes over time but will not affect seconded staff.
<b>Risk of two-tier workforce developing</b>	<b>Low risk -</b> only if large differences between transferees and seconded staff develop	<b>High risk</b> Staff on different terms and conditions could create two-tier workforce	<b>High risk</b> Staff on different terms and conditions could create two-tier workforce
<b>Risk of no or inadequate redeployment</b>	<b>Low risk</b>	<b>High risk</b> Not applicable therefore staff bear the risk	<b>Medium risk</b> Applicable only to transferred staff.
<b>Risk of inadequate implementation of family friendly policies</b>	<b>Low risk</b>	<b>Medium risk</b>	<b>Medium risk</b> Applicable only to transferred staff.



<b>Risk</b>	<b>In-house/ Secondment</b>	<b>Transfer</b>	<b>'Choice'</b>
<b>Risk of changes to pensions</b>			
<b>Risk of not remaining in Local Government Pension Scheme</b>	<b>No risk</b> as staff remain on local authority terms and conditions	<b>Medium risk</b> Requires public sector to make it a condition of contract	<b>Medium risk</b> Requires public sector to make it a condition of contract
<b>Risk of changes to quality and conditions of private company pension scheme</b>	<b>No risk</b> as staff remain on local authority terms and conditions	<b>Medium risk</b> Code is 'permissive' with regard to defined benefit/final salary scheme	<b>Medium risk</b>
<b>Risk of reduction in employer contribution and increase in employee contribution</b>	<b>No risk</b> as staff remain on local authority terms and conditions	<b>Medium risk</b> Code is 'permissive' with regard to defined benefit/final salary scheme	<b>Medium risk</b>
<b>Risk of closure of final salary scheme by private sector employer</b>	<b>No risk</b> as staff remain on local authority terms and conditions	<b>Medium risk</b> Code is 'permissive' with regard to defined benefit/final salary scheme	<b>Medium risk</b> Many private companies closed final salary schemes.
<b>Risk of changes to workplace conditions</b>			
<b>Risk of changes to trade union facility time</b>	<b>Low risk</b>	<b>Medium risk</b> of demanding/imposing a reduction	<b>Medium risk</b> of demanding/imposing a reduction
<b>Risk of changes to health and safety policies and practices</b>	<b>Low risk</b>	<b>Low risk</b>	<b>Low risk</b>
<b>Risk of changes to grievance and disciplinary procedures</b>	<b>Low risk</b>	<b>High risk</b> as private sector has own procedures.	<b>Medium risk</b> Affects only transferred staff.
<b>Risk of changes to equal opportunities policies and practices</b>	<b>Low risk</b>	<b>Medium risk</b> in terms of degree of implementation.	<b>Medium risk</b> in terms of degree of implementation.
<b>Failure to implement corporate policies and priorities</b>	<b>Low risk</b>	<b>Medium risk</b> of some corporate policies not fully implemented.	<b>Medium risk</b> of some corporate policies not fully implemented.
<b>Risk of loss of public service ethos</b>	<b>Low risk</b> as staff remain council employees.	<b>High risk</b> - staff will be private sector employees.	<b>Medium risk</b> Mixture of private and public sector employees.

Risk	In-house/ Secondment	Transfer	'Choice'
<b>Risk of changes to staff consultation and representation</b>			
<b>Risk of lack of consultation with staff over improvement plans and reengineering proposals</b>	<b>Low risk</b> because of Change Control Procedure in Secondment Agreement	<b>Medium risk</b> based on experience of PPP and outsourcing contract	<b>Medium risk</b> based on experience of PPP and outsourcing contracts
<b>Risk of lack of consultation with staff in other departments</b>	<b>Low risk</b> because of Change Control Procedure in Secondment Agreement	<b>Medium risk</b> based on experience of PPP and outsourcing contracts	<b>Medium risk</b> based on experience of PPP and outsourcing contracts
<b>Risk of changes to working practices which have not been agreed with staff and trade unions</b>	<b>Low risk</b> because of Change Control Procedure in Secondment Agreement	<b>High risk</b> based on PPP and outsourcing contracts.	<b>High risk</b> based on PPP and outsourcing contracts.
<b>Risk of inadequate training</b>	<b>Low risk</b> because of Change Control Procedure in Secondment Agreement	<b>High risk</b> based on PPP and outsourcing contracts.	<b>High risk</b> based on PPP and outsourcing contracts.
<b>Risk of changes to the industrial relations framework</b>	<b>Low risk</b> because of Change Control Procedure in Secondment Agreement	<b>High risk</b> based on PPP and outsourcing contracts.	<b>High risk</b> based on PPP and outsourcing contracts.
<b>Risk of problems with secondment agreement</b>			
<b>Risk of secondment agreement failing</b>	<b>Low risk</b> based on experience in other parts of the public sector	<b>No risk</b> – not applicable	<b>Low risk</b> based on experience in other parts of the public sector
<b>Risk of legal challenge to secondment agreement re TUPE</b>	<b>Low risk</b> based on experience in other parts of the public sector	<b>No risk</b> – not applicable	<b>Low risk</b> based on experience in other parts of the public sector
<b>Risk of contractor seeking to reduce or terminate secondment</b>	<b>No risk</b> – not applicable	<b>No risk</b> – not applicable	<b>Medium risk</b> if most staff transfer.

European Services Strategy Unit, 2006.

Table 7: Summary of Employment Risk

Risk level	In-house/Secondment		Transfer		'Choice'	
	Number	%	Number	%	Number	%
None	9	36	3	12	0	0
Low	16	64	2	8	4	16
Medium	-	-	10	40	17	68
High	-	-	10	40	4	16
Total	25	100	25	100	25	100

European Services Strategy Unit, 2006.



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