

SERIES OF ARTICLES FOR MUNICIPAL JOURNAL ON SHARED SERVICES

Article 1 - Making Joint Working and Collaboration a Reality By Stephen Cirell

If we were to canvass local government officers and members as to what is *the* most important challenge for local authorities today, it is highly likely that joint working would feature at the top of the list. As the Government's White Paper approaches, we have been commissioned to write a series of articles on this key area, recently defined by the Audit Commission as: "an agreement between two or more independent bodies to work collectively to achieve an objective..."

There are numerous ways that this aim can be satisfied, from relatively modest provisions at one end of the scale, (such as informal collaboration, shared depots and the like); through more formal secondment of staff or joint officers (in more than one area two local authorities share a director of legal services); to full amalgamation of services, perhaps utilising a specially formed corporate model.

However, much of what is said about joint working, collaboration, shared services - or whatever you want to call it - is fanciful, not based on any knowledge of what is possible in legal terms. To follow such a route is highly dangerous, as it simply means that problems are encountered later, when it becomes clear that what you have decided to do is not achievable within the law.

So this series will explain joint working in simple legal terms but also link the various options to the current legal framework that underpins the operation of local government. From this analysis it becomes clear what can be lawfully achieved.

The series will include an analysis of the policy background paving the way for joint working; the models available for this type of activity, whether administrative, contractual or corporate; the key area of procurement and how the various models will be treated by the EU public procurement regime and governance arrangements for the various types of joint working. We will conclude by suggesting how the law might be changed to better facilitate joint working and overcome significant current problems.

The place to start, however, is why are we agonising about joint working at all? The answer to this question requires a look at the policy agenda which has created the context in which joint working will develop and from that to derive some of the drivers behind it.

This analysis starts with the General Election in 1997 when the current government first came to power. It embarked on its - now famous - Modernisation Agenda, which is a bold blueprint for change in the delivery of public services. This bandwagon is still rolling and has continued to gather momentum as the government has moved forwards, and it has evolved particularly since it secured its second and third terms.

With the emergence of David Cameron as a new and more credible leader of the Conservatives, (evidenced by the local election results in May 2006), it is uncertain whether any fourth term will come Labour's way and therefore even more important that the essential reforms are achieved in the next three to four years.

The current climate has been developing for many years, with a cumulative effect. The pressure put on local authorities by governmental policy, backed by a compliance regime with teeth, now seems capable of delivering one of the holy grails for Labour: joint working and shared services. This would not have seemed possible only five years ago.

Under this policy, relentless pressure has been heaped on local government to continue to deliver change, but against a background of little option. The main drivers now are:

- the Gershon agenda. There are still years 2 and 3 to go and local authorities will struggle to find any further "quick wins". Many commentators have suggested that major transactions either public / public or public / private will be the only answer;
- Local Area Agreements. These are a further development of the LSP concept, this time involving the various stakeholders in pooling their share of public funds, for a jointly agreed strategy to assist the governance of the locality concerned. They are a new deal between central and local government, health and quangos that should mean real change. Obviously in harmony with the community leadership role and taking the 'working together' mantra to new heights;
- The new performance framework. The CPA continues until 2008 and is then likely to metamorphose into something else with a new name, a fresh feel and a suspiciously similar purpose! The government still has the legal foundation of Best Value (the Local Government Act 1999, including the sanction provisions in s15) and added to those 'nuclear' powers (ie direct intervention) are the engagement and inspection provisions under CPA, which have proved highly effective in keeping local authorities in line. We need look no further than the new provisions on "use of resources" under the CPA to find essentially an enforcement mechanism for Gershon. The 'Sword of Damacles' of a poor CPA result - and

potential intervention - has proved a very smart way of forcing local authorities to tow the policy line;

- Finally, there is the threat of reorganisation. This is a perennial problem for local government and forms the traditional theme on which central government simply cannot make up its mind! The latest twist in this saga is that re organisation seems to be back on the agenda, though the departure of David Milliband may affect this. It has been said that collaboration is the only answer to avoid reorganisation; others believe that collaboration is the beginning of the end, and simply justifies the ultimate reorganisation. It would, however, be difficult for any government to justify a reorganisation of local government if it was unnecessary, due to the cost, administrative hassle, political fallout and so on.

So from this analysis of governmental policy we can see that local government really has little choice but to engage in joint working and shared services; coupled with the fact that the public does not understand why local authorities cannot work better together and is just not interested in excuses, creating a parallel public pressure.

But lets be honest about it, shared service delivery and joint working in whatever form is right in principle and is sensible. So having established that local government has to do this, we will look in subsequent articles at some of the ways that local authorities rise to this policy challenge.

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1000 words