



Cardiff UNISON **TATA Contract Strategy**



**European Services
Strategy Unit**

(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.

Introduction

This briefing paper outlines a strategy to try to minimise the use of the TCS contract and to ensure that the Council, services, staff and the local economy gain the maximum benefit, if or when, the contract is implemented.

- Challenges and threats of the TCS contract
- Key elements of the Contract
 - Service delivery
 - Governance
 - Employment
 - Commercial exploitation
- Knowledge transfer and capability building
- Risk and public interest issues
- Recommendations

Challenges and threats of the TCS contract

A contract of this nature inevitably poses a range of challenges and threats. Firstly, a 'perfect' contract does not exist in any form of procurement. Secondly, the nature of the contract means that there may be changes, positive and/or negative, in direction or emphasis over the course of the contract. This is inevitable given the 15-year term of the contract. Thirdly, political statements or assurances made at the start of the contract may have eased its approval but may have little resonance if political and economic priorities change.

The contract may face a number of challenges and changes:

- Business cases might be superficial in scope and lack analytical rigor leading to ineffectiveness and potential overspending. Financial concerns may come to dominate the evaluation of business cases. Business cases could also be used to legitimise the outsourcing of services and transfer of staff to private contractors.
- Business cases must first and foremost be aligned with the Council's transformation strategy, otherwise projects may lack integration and connectivity. The promotion of isolated 'pet' projects or those primarily reflecting TCS interests must be avoided at all costs.
- If the governance, accountability and decision making processes for business cases are not transparent and rigorous, this could create the conditions in which some Council officers and TCS have too much influence in determining project design and the overall workload. This is likely to be a recipe for poor contract management, which could ultimately reduce the effectiveness of scrutiny.
- Each project must be subjected to rigorous monitoring and contract management to ensure the business case is delivered on time and to budget. Regular reporting and contract review are essential. The Council must commit adequate resources to contract management and monitoring, costed in each

business case, to ensure value for money and that transformation and corporate objectives are met.

- Knowledge transfer and capability building may not take place at the required rate resulting in the Council becoming more and more reliant on TCS.
- TCS may not have the required understanding and depth of knowledge of local government in Wales or may not be able to develop ICT services to the extent required by the Council within the terms of the contract.
- Alternatively, TCS could become embedded in the Council leading to changes in the scope and nature of the contract. This could result in the contractor becoming further embedded in the Council and lead to a transition from ‘insourcing’ to outsourcing.
- Poaching of CCC staff by TCS could further reduce the Council’s capability and capacity and increase reliance on the contract.
- Finally, role of consultants such as PwC, irrespective of whether they are engaged by the Council or TCS, must be subjected to the same governance, accountability and transparency frameworks. Any duplication or blurring of roles will only reinforce the points raised above.

Key elements of the Contract

The TCS Contract and the Schedules recently released by the Council raise a number of important issues, which are grouped under the following headings:

Service delivery

Schedule 3.6: Monitoring & Reporting: General approach to monitoring with reporting and governance procedures agreed within 60 working days of the start of the contract.

Schedule 3.7: Continuous Improvement: The Continuous Improvement Programme (CIP) is applicable only to the services provided by TCS but covers proposals to deliver council services more efficiently, reduce the cost of services, improve productivity and improve technology. The CIP will be developed as part of the Optimise IT Health Check and will be reviewed quarterly.

Schedule 7.1: Business Case Development: Sets out the scope and content of Outline (OBC) and Detailed Business Cases (DBC) which are discussed in the following section.

Schedule 12.3: Value for Money provisions: This concerns the process of benchmarking services – major concerns include the selection of comparators, benchmarkers and the basis for reaching conclusions as to whether “Benchmarked Services are not Good Value”.

Schedule 13.2: Change Control Mechanism: Sets out the procedures for approving operational, project and contract changes.

Schedule 7.1 proposes that OBCs should include”

Case for change

Scope and objectives

Resources

Timescales

Commercial/Finance
Benefits
Risk
Options Appraisal
Interdependencies
Acceptance Criteria
Assumptions and Constraints
Stakeholders
Transition

The OBC should also include:

- *Strategic context:* How the project aligns with the transformation and corporate strategy, policies and plans and the extent to which it addresses cross cutting issues and service integration.
- *Options appraisal:* The Business Case should examine all potential options and the proposal to include a 'Do Nothing' options should be challenged. Given the transformation agenda and budget crisis and the expected constant level of change, a 'Do Nothing' option is not credible. It is essential that all options are realistic, viable and feasible. A 'minimum change' option would be more effective.
- *Options Appraisal criteria:* The Business Case should also set out the criteria used to assess the project's viability, value for money and effectiveness. The assumptions underpinning options appraisal should also be clearly stated. Each business case should be assessed using a common evaluation/impact assessment framework, which should include:
 - Contribution to transformation strategy and innovation
 - Service needs
 - Technical/design assessment
 - Corporate priorities
 - Affordability and availability of resources
 - Knowledge transfer and capacity building
 - Risk and project management
 - Equity, equalities and diversity
 - Workforce development and employment impacts
 - Community well being and local economy
- *The preferred option - cost, benefits and affordability:* The business case should state the economic, social, environmental, equality, health and sustainable development benefits of the proposal. It should include a rigorous analysis of the affordability of the project, identify outputs, outcomes, performance standards and required inputs from the Council and TCS.

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- *Project risks:* The business case should identify, allocate and price risks to the Council, services and staff and how they will to be managed, mitigated or eliminated.
 - *Employment matters:* This should ensure that all employment matters are fully taken into account. Since the contract deals with 'external expenditure', the threat of outsourcing remains. It is therefore essential that each business case clearly identifies the employment impacts, the application of TUPE Plus in the event of any outsourcing, full implementation of the Workforce Matters Code of Practice and fully resourced project management and monitoring.
 - *Project delivery arrangements:* This section should set out how the project will be delivered, including staff, trade union and service user involvement, together with a project management plan.

A common OBC process and templates are due to be adopted within three months of the start of the contract. It is essential that UNISON is engaged in this process and the above criteria are taken into account.

It should also be noted that the scope of Value for Money assessments will also be developed in the same timescale.

Commercial exploitation

Schedule 2.3: Added Value: This focuses on major projects such as DigiGov and the Cardiff Innovation Centre and significant sections have been removed on 'commercial confidentiality' grounds. "The Partner's vision is very much about leveraging resources and creating structures that can act as a catalyst to transform public services." Whilst these projects may add value to council services, this schedule is essentially about how TCS might commercially add value to major projects.

Schedule 9.1: Opportunity Identification and Development: Identification and development of commercialization opportunities.

Schedule 9.2: Special Purpose Vehicle: Note that the Council would have to retain control over key issues, such as: the objects of the SPV; terms and conditions of employment of any Authority employees seconded or transferred to the company (a legal requirement); and the activities of the SPV – but does not refer to other Council assets!

The contract raises a number of important issues about how projects for commercial development, in particular those that may involve the establishment of Special Purpose Companies, will be developed. It appears that this element of the contract is deliberately vague and 'flexible' and will require UNISON to be vigilant.

Employment

Section 38 of Contract and Schedule 14.1: Staff Transfer: This is drawn up to cover the possibility of a TUPE transfer during the course of the contract. This could arise within the scope of the contract or through the establishment of a Special Purpose Vehicle to take advantage of 'commercial opportunities'.

Schedule 14.2: Secondment: No reference to trade union rights, representation etc.

Whilst the project has commenced without the transfer of staff, there is no guarantee that this will continue for the length of the contract. Proposals to exploit commercial opportunities are almost certain to contain the transfer or secondment of staff and the

point about the contract being deliberately vague and 'flexible' and thus requiring UNISON vigilance are similarly valid.

Governance

Four governance groups are planned for the contract:

- Corporate Management Board
- Technology Transformation Board
- Prioritisation and Governance Meeting
- Account Management Group

Schedule 2.1: Engagement and Collaboration: Sets out the responsibilities and structures for the partnership.

Schedule 2.2: Relationship Charter: To jointly draw up a relationship charter within 6 months of the start of the contract which will incorporate the six principles – co-operation, communications, early warning etc set out in this schedule.

The process of preparing each Business Case should include consultation with related services, staff and trade unions and service users. This should cover:

- consultation on the objectives, design and scope of projects.
- opportunity for staff/trade unions to make alternative proposals and for these to be evaluated.
- access to information (a information and confidentiality agreement may be necessary in some circumstances).
- consultation on the draft business case.

A transparent decision making process for each business case should identify the support, responsible parties and relevant decision-making bodies. There should be grading of projects by size, cost, and complexity so that the larger projects require approval by the Executive.

The change control mechanism is designed to permit agreed to the scope and scale of projects after they have been approved. Changing conditions, needs, circumstance, and resources mean that few projects are implemented precisely as they are approved. A change control mechanism allows for changes to be democratically approved and transparent.

The business case should identify the proposed contract management, monitoring and evaluation of the project, the required resources and plus the reporting of results and scrutiny.

Knowledge transfer and capability building

Each Business case should identify the knowledge transfer and capacity building objectives and the mechanisms by which the objectives will be achieved.

However, the contract schedules noted above rarely refer to knowledge transfer and capacity building, although a full review of the entire contract is not within the scope of this report. Although the 'partnership' is claimed to be designed to achieve these objectives, there is very little content which prescribes how they will be achieved over the duration of the contract.

It is important to define ‘capability or capacity building’ and ‘intellectual knowledge’.

Capability or capacity building: Civil Service Capability Reviews in UK government departments provide a useful three-part framework. Leadership includes – setting direction; igniting passion, pace and drive; taking responsibility for leading delivery and change; and building capability. Strategy - focus on outcomes, base choices on evidence and build common purpose. Delivery includes plan, resource and prioritise, develop clear roles, responsibilities and manage performance.

Intellectual knowledge: Having mechanisms in place to enhance and protect public information and accumulated knowledge and experience so that it is retained in the public interest.

Each Business Case should identify how capability/capacity building will be achieved, for example through:

- *Training of Council staff to increase the range of skills and experience within the Council* – the scope, content, frequency and participating staff.
- *Joint working and development between TCS and Council staff* – joint Council/TCS staffing of project teams, including placements and secondments, to undertake projects and increase Council capability.
- *Ownership of intellectual knowledge* – this includes Council data, processes, procedures, and software.
- *Procedure if expertise is not available within the Council* – the timeframe, degree of urgency, recruitment options and conditions under which expertise may be sought from other sources.

Joint arrangements for identifying and implementing knowledge transfer, both formal and informal, will be agreed within 60 working days of the start of the contract. It is essential that both parties fully engage UNISON in this process.

Risk and public interest issues

Identification of all the risks including pricing, allocation and how risks can be minimised, mitigated or eliminated in the project.

Public interest can be safeguarded by ensuring that:

- Each project objective is aligned to transformation and corporate objectives and strategies.
- Projects are subject to democratic governance, accountability and transparency to prevent possible client/contractor collusion or ‘corporate welfare’ from emerging.
- Consultants and sub-contractors employed on specific projects operate to transformation and corporate objectives and strategies.
- The evaluation criteria for the assessment of business cases reflects service/community, local economy and well-being objectives.

Recommended action

1. The Council and TCS should fully engage UNISON in the design of business cases, governance arrangements, value for money assessments, knowledge transfer and other processes and templates to be joint agreed in the first stage of the TCS contract.
2. UNISON should negotiate a Protocol with the Council that includes participation, access to information and consultation procedures covering the governance, employment, service improvement and business case development during the TCS contract.
3. UNISON should consider running a half-day training session for stewards in Business Case preparation and critique.

References

Cardiff Council (2008) Connecting Citizens: Procurement of a Strategic Technology Partner – Invitation to Participate in Dialogue: Descriptive Document, Cardiff.

Cardiff Council (2008) Strategic Technology Partnership and Update on 101, report of the Chief Executive to Executive Business Meeting, 6 November, Cardiff.

Cardiff Council (2009) Cardiff Digital City Initiative: report of the Chief Executive to Executive Business Meeting, 15 January, Cardiff.

Cardiff Council (2009) Strategic Technology Partnership, Report to Policy Review and Performance Scrutiny Committee, 1 April, Cardiff.

Cardiff Council (2009) Strategic Technology Partnership, Report to Policy Review and Performance Scrutiny Committee, 4 November, Cardiff.

Cardiff Council (2009) Partnership Agreement between The County Council of the City and County of Cardiff and Tata Consultancy Services Limited (edited version, December).

Cardiff UNISON (2009) Critique of Cardiff Council's Transformation Strategy, report by European Services Strategy Unit.

Sunningdale Institute (2007) Take-off or Tail-off? An evaluation of the Capability Reviews Programme, www.nationalschool.gov.uk

UNISON Northern (2008) Commissioning and Procurement Toolkit for Local Government and Health, European Services Strategy Unit. www.european-services-strategy.org.uk/publications/public-bodies/privatisation-and-marketisation/procurement-toolkit/

UNISON (2008) From Commissioning to Contract Evaluation, London www.unison.org.uk