

Local government mutual spinouts – case studies

Introduction - the Milton Keynes Community Safety Partnership, SaferMK

SaferMK (the Milton Keynes Community Safety Partnership) is a partnership of local organisations working with the community to reduce crime, fear of crime and anti-social behaviour. In the last eighteen months the service has witnessed major upheaval and seen significant cuts to its budget; the partnership's support team has thus shrunk dramatically from eighteen members of staff, to just three (one of whom is the soon to retire Head of Community Safety). Alongside this, national changes to community safety policy and practice are underway - there is an estimated 20-25% reduction in core funding still to come and grant funding, previously routed through community safety partnerships, is being redirected to the local Police and Crime Commissioner.

Within this context staff at SaferMK have decided to pursue a mutual spin-out and are heading towards the halfway mark in their transition away from Milton Keynes Council. They are attracted by the flexibility of a staff led spin out and hope to use this structure to rebuild the community safety function and ensure a high quality and local community safety service remains in Milton Keynes.

Why? The case for a mutual

Reductions in budget and available resource under the current model mean less capacity is available for delivery: the capacity that remains is being consumed by the reporting and coordination requirements of partner agencies (estimated by staff to require 60% of their total capacity at this stage):

'We have seen...a gradual decline in the amount of service we are able to deliver, in the resources we have and in the number of things we are able to facilitate. Our team has become very much coordination only, rather than physical delivery...Gaps and holes have started to develop; the partnership has worked well since 1998 but now it is time to look at new demand and new service delivery.'

The team hope that a mutual model of ownership will help them break down existing barriers to effectiveness and offer new opportunities to develop and improve the service. They believe the opportunity exists to diversify services and reshape delivery so it is proactive rather than reactive and focussed on the frontline:

'We want to offer our services in other areas and take a grass roots approach, tailoring our work locally - this is different to the central government push we had for many years which prescribed what should be done. We will approach other partnerships with our ideas because we have done things in the past that have been recognised as best practice; this is reflected in our crime prevention statistics. So perhaps we can sell [these services in other areas].'

SaferMK staff also fear the fragmentation of the community safety partnership itself; they believe there is significant value in the coordinated approach across partner agencies and want to prevent the functions becoming fragmented, ad hoc and under-resourced (they see this as a real possibility if services are delivered by partner agencies unilaterally) thus impacting negatively on outcomes.

The team has excellent relationships with statutory agencies, town and parish councils, the voluntary sector and local action groups (with whom they have developed measures to tackle

domestic violence and provide crisis and mediation services) and with local businesses (having collaborated to tackle crime against local business and problems surrounding the night time economy, for example *Milton Keynes Bar Watch*). They believe a mutual model of ownership would help them strengthen these activities and increase their impact at neighbourhood and street level.

Finally it is anticipated that the new Police and Crime Commissioners will be allocating funding for the delivery of specific local projects. Staff capacity is currently squeezed to the point that such a bid would not be possible and this could mean a break in direct links to local commissioners. Staff believe under a new model of ownership could generate additional capacity through efficient use of time and utilise some resource to employ a project manager. They could also partner with other agencies (which is restricted under their current model of ownership).

Staff are convinced they have a business case which could realise the improvement of local services and the expansion of services, better use of data and reporting, increased efficiency and financial savings. This would benefit the council in particular but also other statutory partners and would ultimately yield improved outcomes and greater social results.

The transition process

Staff at SaferMK (supported by their retiring head of service) have spent a significant amount of their own time researching public sector mutuals, developing a business plan and considering the best model of ownership for the future. Having examined published literature and guidance, they began to think seriously about the possibility of spinning out to become an independent service.

The first formal stage in the transition process was the submission of an Expression of Interest to their governing body - the Responsible Authorities Group. From here the team were given the green light to produce a full business case. They secured some partnership money and employed a social enterprise consultant, to give guidance around the business case and transition process. They have also been awarded up to £20,000 funding from the Cabinet Office Mutual Support Programme, to access legal and financial advice.

Currently, whilst staff at SaferMK work on their plans internally, officers and elected members from Milton Keynes Council are considering how to handle this and other potential spin outs; SaferMK are the first of their services to consider becoming a mutual and the council have questions about the process including questions about asset transfer, procurement and the legal aspects of the transition. Both parties are very concerned that they get this right.

To help ensure the council are operating from an informed position and have clear policies, the Cabinet Office are due to meet with members of the senior leadership team to provide them with further background knowledge and expert advice. It is hoped that this meeting will enable the council to develop more clarity about its approach to public sector mutual spin-outs and to become more confident in tackling transitions.

Technical details of the spin out

Ownership

From their own research, staff decided the type of company they would like to become is a Community Interest Company (CIC) with the legal model form of a Company Limited by Guarantee. Having looked at a number of different options they have settled on this model and legal form because of the focus on social objectives and the built in asset lock.

Officers and elected members at Milton Keynes Council would like assurances that the upshot of a transition to independence is not privatisation which results in the loss of public assets from the local community. Staff share this concern and for this reason a legal model which offers an 'asset lock' is attractive; in a CIC model the asset lock guarantees that should the new enterprise fail as an effective business, assets must be transferred to another organisation with the safeguards to fulfil the same purpose.

In addition to the asset lock, the CIC model is attractive because of the relatively small number of accounting and reporting arrangements required of CICs, in comparison to Charities and Industrial and Provident Societies. Reducing the burden of governance and reporting is one of the main drivers of the spin out and is a key element of the business case for a mutual model of ownership.

SaferMK has not yet established its legal model and will need to decide who its 'members' are as a Company Limited by Guarantee. They have accessed funding from the Cabinet Office Mutual Support Programme to help them and once appropriate lawyers have been engaged, the team will take professional advice about the legal model. They are open to an alternative legal form if it better meets their objectives.

Governance

Governance structures are being developed alongside the legal company form; at this stage in proceedings the plan is for the two remaining members of staff (following the retirement of the Head of Service) to become Directors. Alongside the two Directors will be one Non-Executive Director (NED) who it is hoped will bring experience of working in the community safety field, additional management and corporate expertise and a positive reputation to ensure a well rounded governing body is in place to steer the new mutual.

It is not anticipated that elected members, officers or representatives of statutory agencies will sit on the governing body. It is hoped that the governance structures can be developed in a way that ensures employees have a strong and clear voice; the small size of the team means there are no plans to include any additional governance structures for employees at this stage, but the team are willing to revise this in future should SaferMK expand.

Staff in the transitioning organisation are hoping that the support from the Cabinet Office Mutual Support Programme will encompass expert advice on governance:

'Governance is probably one of the areas we need the most guidance on...the governance is something we really need to get right and we need to make sure we have got the right people on board and we are set up in the right way as that obviously affects then how we are going to run and probably how successful we are going to be.'

Finally, if services are procured under a Service Level Agreement, the new enterprise will be monitored by the responsible authorities and as a statutory public service delivered by an external organisation (the new staff-led mutual); the local authority will continue to have Overview and Scrutiny Committee powers.

The Right to Challenge and procurement regulations

Since the initial EOI was submitted more has been learnt about the transition process and the complexity of it has slowed progress between the Council and SaferMK. The Council want to be certain that they comply with new Rights to Challenge contained within the Localism Act 2011 (which states that employers are expected to accept suitable proposals from staff who want to bid to take over and run their service) and with procurement law.

Staff from SaferMK are pleased the Cabinet Office are able to offer some input to the Council directly and hope this advice will put the transition back on track to meet its deadlines which are influenced by their Head of Service's date for retirement and the election of Police and Crime Commissioners towards the end of 2012; the team would like to be able to engage with their local Police and Crime Commissioner as early as possible to establish themselves in the new commissioning landscape and ensure there is confidence in the new provider model.

It is not clear yet what procurement process the Council will run; the Council are yet to confirm whether the service is a Part B service or whether they are required to take the service through a full EU procurement process. If they are not required to do so the Council will establish the most relevant procedure. The team, whilst keen to move the process along and meet their deadlines, acknowledge that the Council must be clear about their position:

'Crucial for things to move along is the Council being fully informed, only then they will be able to make decisions.'

TUPE and Pensions

The size of the team and the retirement of their service head means only two members of staff will be spinning out; this significantly reduces the scale of the process of informing and consulting with staff and of providing the incoming employer with written details about the transferring employees and the associated rights and liabilities that will transfer.

Pensions complexities are also lessened because:

'When we spin-out our organisation will contain less than five employees, this means we don't have to have a pension scheme; at the moment one of us in is the Local Government Pension Scheme and one of us is not. We are going to explore this more externally.'

Viability - financial assessment, VAT and tax

The business case for the continuation of the service as a staff-led social enterprise, is being constructed around the delivery of SaferMK's existing remit, to ensure a realistic assessment of business feasibility; however potential areas for growth are being identified, for example CCTV. But financial information has proved difficult to obtain. Detailed costings need to be done to ensure the new business is viable; this means establishing full current costs and any likely savings under a new model of ownership. SaferMK have enlisted the help of a financial consultant to support them in assessment of the current position and to think about potential future sources of funding and financial sustainability. Assessment of financial viability is being made more difficult by uncertainty surrounding future funding and available grants:

'We can look at services we can sell, but we are not sure what funding will go to Police Crime Commissioners, what the revenue budget for our team might be from within the local authority core budget and what grants might be available for community safety and from other pots. We hope things will be more flexible for us if we are a social enterprise but we can't predict, we still need to break even... We would like the RAG to be a commissioning body not just the local council and see contributions from a number of partners into the SLA, a pooled funding pot.'

They are aware that they will be liable to pay VAT as an independent mutual and are building this into their calculations.

The involvement of elected members

Elected Members were involved very early on in the process and the proposals for a mutual spin-out generated a significant amount of interest and some clear support. As the transition has progressed, balancing the operational and political aspects of the transition has become more important. All stakeholders are keen to ensure that communications around the transition are accurate and there has been less involvement of elected members as officers dig into the tricky operational issues.

Overcoming the challenges of the transition process

SaferMK believe research is key to overcoming the challenges posed by a spin-out and have invested a lot of their time looking into mutual models of ownership and accessing guidance:

'The number one thing has been research...we spent hours reading and (until we brought in a social enterprise consultant [after the EOI]) the whole process was self-led... We attended conferences on mutuals and social enterprises and linked in to the national picture. A local social enterprise in Milton Keynes also helped signpost and give us advice around the business case... Timelines, case studies, project plans and milestones have been very helpful and gave us guidance about the next step... We are hoping to share this [research] with a team at the local authority as it is useful to explain what is going on now, why people are doing this and why it is attractive.'

In addition the transition is supported by their retiring Head of Service and he has put SaferMK staff in touch with stakeholders they will need to build relationships with and work with in the future (for example responsible authorities on the RAG):

'We have set up meetings to hear their ideas and consult with them so we set up a service they are actually going to want.'

Next steps

In the next few months the priority is to obtain legal and governance advice, to get their financial assessment completed and to finalise their business planning. After this they will meet with the local authority and other responsible authorities to answer any questions that remain and (hopefully) move ahead.

Top tips for local government mutual spin outs

The staff at SaferMK believe having a senior champion within their local authority who overtly supported the transition (at officer and/or elected member level) would have brought real benefits and helped smooth the transition process and communications between stakeholders. Whilst respecting the need for separation around official elements of the transition process such as procurement, they emphasise the importance of communicating effectively:

'Information is important in such a complex and new world; make sure people are informed in their decisions. So many senior managers see this as a threat rather than an opportunity. We need to get the message to senior people that it is a new way of working...of keeping services local and generating revenue, not losing a service... Others are losing services that could be spun out, it's about having the confidence to spin out before your back is against the wall, because then it is hard.'