

LOOKING AT LATCOs



The long and the short of LATCOs

By **Barry Gostling** Partner

For over 10 years I have worked with many LATCOs and aspiring LATCOs. The start of 2024 therefore provides a good opportunity to reflect on the experiences gained and consider 'the long and the short of LATCOs'.

Continued overleaf ▶

The long and the short of LATCOs *continued*

The 'long' and the 'short' referred to here, is the time period of a LATCO's life. Over recent years we have seen LATCOs conceived, born, developed and unfortunately cease!

At the head of lessons to be learnt here, is when considering any LATCO, it is essential that short-termism is not permitted to rule the day. If you consider a LATCO as a short term expediency, the advice would be to seek an alternative option!

LATCOs especially, do not fit into electoral cycles, four to five years is not sufficient time to maximise the benefits and opportunities of a LATCO.

In recent years, too many LATCOs have been created and grown to become profitable businesses, providing real financial benefits for their council shareholders only for changes within the parent council, to trigger ideological rather than reasoned changes in the way the

LATCO is permitted to operate, or its goals for the future. In too many cases the LATCO once financially viable and successful, has been set on a path of decline leading to its ultimate cessation. So, the learnt experience here can be summarised simply as:

1. Only create a LATCO if you are prepared for its development over a period of more than five years.
2. Ideally, get cross-party support for the LATCO before you start. Business and politics generally make bad bedfellows.
3. Have clear financial and operational goals for the LATCO agreed upon by all current key and potential future stakeholders.
4. Don't be tempted to run a LATCO without the intention of making a profit. Businesses need profits to invest in the future development of their operations.

Too many parent councils see a LATCO as a cost centre and strive to run the operation on a shoestring. A LATCO should be self-supporting, but also needs profits to invest and develop itself for the future. Whilst occasionally there might be benefits to creating a LATCO wholly, or mainly to minimise the complications of local government procurement regimes, past experience suggests even in these cases the absence of a profit motive can cause difficulties in maintaining a successful long-term LATCO for the ultimate benefit of the taxpayer.

At Ensors we are always keen to have early conversations with current or potential LATCOs, with no obligation to engage us further. We can also connect you with LATCO self-help groups such as the LATCO network, who are always happy to share real life experiences from the front line.

Getting the structure right

The popular option is to set up a LATCO as a company limited by shares, but there are a mirage of options...

- Limited company** – by shares or guarantee?
- A co-operative** – employee benefit or community benefit?
- Charitable** – community interest company or a registered charity?

With each of these structural differences, there are implications.

- Direct tax implication (Corporation Tax)
- Indirect tax implications (VAT)
- Governance implications (who are the directors, shareholders etc.?)
- Political implications
- Growth implications

Examples

LATCO 1 A LATCO is set up to provide property maintenance services to develop residential property units, which the council will then acquire and let as part of its housing stock.

Alarm bells?

- Funding – possibly depending on the arm's length nature of the funding provided by the council.
- VAT – definitely! A mix of VATable and exempt activities happening here, there is a potential to leak VAT.
- Commercial – potentially! There is a mix of risk levels here all wrapped up in one legal entity.

LATCO 2 A LATCO is set up to acquire and hold residential properties, which will be let in the district to help with the council's statutory housing obligations. The LATCO will also maintain these properties using council employed staff.

Alarm bells?

- Funding – possibly depending on the arm's length nature of the funding provided by the council.

- VAT – definitely! The LATCO is providing largely exempt services, but any services including the staffing from the council, will probably be VATable services to the LATCO which the LATCO will potentially be blocked from recovering... VAT leakage.

LATCO 3 A LATCO is set up to provide waste management services initially in the district of the parent council, but with a vague thought that over time the geographical service area might be expanded into neighbouring areas.

Alarm bells?

- Funding – possibly depending on the arm's length nature of the funding provided by the council.
- Corporation Tax – a mixture of mutual and non-mutual trading.
- Structure – would expansion be via offering neighbouring councils the opportunity to become shareholders or just customers?
- Equipment financing.
- Teckal...

It is important to remember that a LATCO has none of the tax exemptions of the parent council. It is therefore vital to get the right advice to minimise Corporation Tax and VAT leakage.

A return to Group Reporting timetables...

Local authority owned trading company results, are consolidated in the respective council accounts, and these are audited by the group auditor.

The group auditor is responsible for issuing an audit opinion on the consolidated financial statements, as well as the Council's individual accounts. The group auditor needs to ensure they have gathered sufficient appropriate audit evidence, to support the opinion that there are no material misstatements or omissions in the consolidated financial statements.

In assessing materiality, the group auditor must consider what amounts derived from a subsidiary, are material to the group financial statements and obtain adequate audit evidence.

The audit evidence can be obtained by the group auditor carrying out procedures directly on the subsidiary, or by relying on work done by another auditor. The most common route is for the group auditor to send group audit instructions and a group reporting pack, to the component (in this case LATCO) auditor.

In recent years, group audits of councils have been delayed with many reasons cited for the failings in timeliness, including; resourcing constraints, COVID, and the increased complexity of financial statements.

The government have now acknowledged that this backlog has grown to an unacceptable level and has issued a joint statement.

Local audit delays: Joint statement on update to proposals to clear the backlog and embed timely audit

Published 8 February 2024

www.gov.uk/government/consultations/addressing-the-local-audit-backlog-in-england-consultation/local-audit-delays-joint-statement-on-update-to-proposals-to-clear-the-backlog-and-embed-timely-audit

The highlights from this report are:

To clear the backlog of historical accounts and 'reset' the system, the Department for Levelling Up, Housing and Communities (DLUHC), proposes putting a date in law (the 'backstop date') – 30 September 2024 – by which point local bodies would publish audited accounts for all outstanding years up to and including 2022/23.

The backstop date is likely to be a factor in local auditors issuing a modified, or disclaimed opinion on outstanding accounts if they do not have enough time to complete all audit work before that date. It is important that local bodies, residents and other account users, can distinguish between modified and disclaimed audit opinions caused by the introduction of backstop dates and those that indicate significant financial reporting, or financial management issues.

Taken together with the proposal outlined in 'Phase 1' for a backstop date of 30 September 2024 for all years up to and including 2022/23, the government is now consulting on the following additional backstop dates:

Year ended 31 March 2024: 31 May 2025

Year ended 31 March 2025: 31 March 2026

Year ended 31 March 2026: 31 January 2027

Year ended 31 March 2027: 30 November 2027

Year ended 31 March 2028: 30 November 2028

What we are seeing in practice is the modification to group audit opinions for the prior years and as such, no group packs issued for assurances of consolidated balances from the subsidiaries of the council for these financial years, but a return to the norm for the 2023/24 year, but with deadline dates in line with the backstops proposed.

Whilst this is a highly unusual situation, a solution to bring the position back in line with an acceptable timetable, can only be seen as a positive step for governance and transparency.

Meet the team



Barry Gostling

PARTNER

01473 220080
barry.gostling@ensors.co.uk



James Francis

PARTNER

01480 420963
james.francis@ensors.co.uk



Robert Leggett

TAX PARTNER

01473 220008
robert.leggett@ensors.co.uk



Chris Barrett

PARTNER

01284 722340
chris.barrett@ensors.co.uk



Helen Rumsey

PARTNER

01473 220012
helen.rumsey@ensors.co.uk



Zoe Plowman

PARTNER

01473 220079
zoe.plowman@ensors.co.uk

Services offered by **Ensors**

- **Audit**
- **Preparation of accounts**
- **Corporation tax compliance**
- **VAT compliance & advisory services**
- **Tax planning**
- **Organisation structural advice**
- **Payroll services**
- **Management accounting**
- **Governance/Director training**



@EnsorsAccounts @EnsorsBizTax

This newsletter seeks to address general business and financial issues and we have taken due care in its preparation. Ensors cannot accept responsibility for loss incurred by any person, company or entity as a result of acting, or failing to act, on any material in this publication. Specialist advice should always be sought in relation to your particular circumstances. Ensors is the trading name of Ensors Accountants LLP and is registered by the Institute of Chartered Accountants in England and Wales. If you do not wish to receive this newsletter in the future, please contact Kristie Holiday on 01473 220090 or kristie.holiday@ensors.co.uk



BURY ST EDMUNDS | CAMBRIDGE | HUNTINGDON | IPSWICH | LONDON | NORWICH | SAXMUNDHAM

www.ensors.co.uk

