

ABERDEEN CITY COUNCIL

COMMITTEE	Education, Culture and Sport
DATE	24th March 2011
DIRECTOR	Annette Bruton
TITLE OF REPORT	Move to a Cultural Trust, ECS C_3
REPORT NUMBER:	ECS/11/021

1. PURPOSE OF REPORT

The report considers how the decision of Council to create a "Cultural Trust" at its meeting on 10th February 2011 will be implemented through an initial options appraisal. The Report includes the Revenue Budget decision in respect of catering at the Beach Ballroom and Museums and Galleries, as the two decisions are inter-related; the expectation is that a Cultural Trust would determine how its catering services are delivered in the future, which may impact upon current Council operations and staffing arrangements.

2. RECOMMENDATIONS

The Committee:

1. Instruct the Director of Education, Culture and Sport to progress, by way of an officers' working group, an options appraisal on the transfer of services to a Cultural Trust, and that the options appraisal (1) include consideration of which services could transfer to such a Trust including the Beach Ballroom and (2) examine a preferred governance model, including the option of community ownership of assets.
2. Instruct officers to report the findings of the option appraisal back to the Committee by 24 November, 2011 at the latest;
3. Instruct officers to identify the scope of the services which an independent external advisor can provide to support the options appraisal, and thereafter appoint an appropriate external adviser, subject to obtaining any relevant Committee approvals if necessary; and
4. Instruct officers to work to achieve the hand over of the delivery of the Museums and Galleries and other services included at an agreed date prior to 31st March 2013, subject to the outcome of the options appraisal and subsequent committee approval.

3. FINANCIAL IMPLICATIONS

Summary - There will be both start up costs and potential savings for the Council; it is estimated that annual savings of £144,000 in respect of non-domestic rates will be achieved, for Museums and Galleries alone, subject to the newly created Trust achieving charitable status. There will be costs to ascertain the long-term sustainability of moving services out with the direct control of the City Council, as well as the costs of transferring and protecting the Council's assets.

The sum of £250,000 has been budgeted in 2011/2012 and was included in the Service Options ECS C_3 and £100,000 in ECS C_22, in order to cover the costs of externalisation, which includes the options appraisal, and all the necessary legal and financial work required on the part of the Council to manage the move to an arms length body.

The benefits to the Council – In addition to the expected savings in non-domestic rates in Museums and Galleries, once other services for inclusion are identified, other potential savings may be achieved. The governance model will need to ensure these savings can be achieved and sustained in any funding model to be put in place.

In addition, it is expected that there will be the potential for an arms length body to increase income from visitor services in the provision of other than specified core services, and that there will also be the ability to apply for and receive funding from external bodies and from individuals, that are currently either not accessible to the services included, or because services are currently operated by the local authority. However, the precise amount of these savings may be dependent upon the service delivery/governance model ultimately put in place.

The implications to enable transfer – Valued Added Tax (VAT) – specialist advice will be required on the potential impact on the Trust and the Council, which can currently recover VAT, to ensure that the most tax efficient structure is put in place.

Clarity will be required on the net costs of service provision that relate to the Museums and Galleries Service and other services included, and how these will be apportioned to an arms length body. These support services include HR, Finance, ICT and other support arrangements. An assessment will be required as to what impact, if any, there may be for colleagues elsewhere in the Council. Currently, the Council covers these central costs, and if they have to be sourced from external suppliers then this will be at an additional cost which will need to be factored into the funding model.

Initial set-up costs – funding of the Trust's initial cash flow prior to becoming fully operational will require to be provided. This will include independent advice to a "shadow" Board, if this is the model to be implemented.

There may be costs in respect of TUPE and in ensuring staff are included as an Admitted Body for pension arrangements, if appropriate having regard to the model of operation to be implemented.

A business plan will require to be fully developed and then costed, to ensure the financial viability of the Trust going forward and to enable it to develop its business objectives. It will also need to demonstrate the cost effectiveness and viability of the proposed service model.

A number of legal documents will need to be put in place to ensure that the Trust is legally constituted as a separate legal entity and also to ensure that the Council and the Trust have a proper, regulated formal relationship.

The ongoing implications -

For the Trust – the Trust may be required to take out its own insurance, independent of the Council. There are costs associated with the protection of the collections, in particular.

Pensions Liability – the Trust may be required to provide a pension scheme for employees who commence work following transfer from the Council.

Admission fees/charges – research will be required to establish the appropriateness or otherwise of entrance rates and the expectation of a reduction for local residents. This would only be for special exhibitions or other non-core services, as agreed as part of the agreements put in place. It is not intended that admission on a daily basis be other than free, but again, this will be dependent on the model of operation and the business plan that the Trust may wish to develop.

For the Council - Transfer of assets – sufficient financial and other assets will be required at point of transfer to enable the Trust to operate effectively. Ownership of the Museums Collections and buildings and/or licence/transfer costs will require resolution. In addition, there are a number of specific funds (e.g. bequests to the Art Gallery) which may require to be reviewed and potentially changes made to how they are operated. This may in turn be dependent upon the nature of the Council's ownership of specific assets and any restrictions which may exist.

Staff – There may be implications for any staff who are involved, including being at risk of redundancy. The position will be clearer once it is agreed which Services are included and it is decided which elements will and which elements will not transfer. It is proposed that the ongoing consultation with staff and trade unions continues.

4. OTHER IMPLICATIONS

Legal and policy context:

Local Authorities have a wide-ranging statutory role to ensure cultural provision.

The specific legislation relating particularly to museums includes:

- The Public Libraries Consolidation (Scotland) Act 1887, Section 10, gives local authorities power to purchase, rent or construct libraries, museums and galleries, and to maintain and furnish those buildings. Section 21 gives authorities power, amongst other things, to purchase books, works of art, maps and other articles, to lend out books and other items and preserve and sell books and other items. The Act also requires local authorities to "*manage, regulate and control all libraries or museums or galleries*" and creates restrictions as to how they may charge for these facilities.
- The Local Government and Planning (Scotland) Act 1982; Sections 14 to 17. Section 14(1), as amended by Section 128 of the Local Government etc. (Scotland) Act 1994, places upon local authorities a duty to "ensure that there is adequate provision of facilities for the inhabitants of their area for recreational, sporting, cultural, and social activities".
- The Local Government etc. (Scotland) Act 1994, Section 53, requires local authorities to make "*proper arrangements*" for the preservation and management of their records, in consultation with the Keeper of the Records of Scotland. Section 54 addresses the use, acquisition and disposal of records (which will include culturally significant archives). Section 54(1)(d) in particular gives authorities power to hold exhibitions of records and conduct lectures about them.
- The Local Government in Scotland Act 2003 deals with arrangements for Community Planning, which embraces planning for cultural activities. The Act also places a duty on local authorities to achieve Best Value, to initiate and facilitate community planning and gives them the power to advance community well-being (section 20) in the context of Community Planning.

The Implementation of the *National Cultural Strategy: Guidance for Scottish Local Authorities* acknowledges that the "legislation is vague in relation to the principal statutory duties and powers". It further advises local authorities to meet their statutory responsibilities by:

- Preparing an authority-wide cultural strategy and action plans
- Ensuring the strategy and plans meet reflect the cultural needs of its area
- Create a supportive infrastructure, providing adequate facilities for cultural, sporting activities etc in line with statutory responsibilities
- Provide services, either directly or by commissioning them from voluntary or private sector bodies
- Contribute to the strategies and plans of other bodies, acting in partnership.¹

In addition, Museums Galleries Scotland has a sector-specific *Quality Improvement System for Museums and Galleries* and the Scottish Government has introduced a quality improvement framework, *How Good is Our Culture and Sport* – developed to help the government and local authorities, and others engaged in making provision for culture to self-evaluate the provision with regard to quality and inclusiveness.

¹ Implementation of the National Cultural Strategy: Guidance for Scottish Local Authorities, March 2003.

The Scottish Government convened a *Museums Think Tank* 2009 to develop a new policy for museums, its recommendations received and responded to, with work now underway for their implementation.

5. BACKGROUND/MAIN ISSUES

The proposal is that a Cultural Trust is created and that the services and venues operated by Museums and Galleries and other cultural, library and community services (to be determined) are transferred to an arms length body. The Museums and Galleries Service includes Aberdeen Art Gallery, Aberdeen Maritime Museum, Provost Skene's House, the Tolbooth and the Collections Store at Kittybrewster. The Service will shortly vacate its premises at Frederick Street. The Beach Ballroom is also included within the scope of this report.

An independent options appraisal will be required to allow a final recommendation on the most efficient means of moving to Trust status.

The report to this Committee that recommends how to implement the Budget decision, ECS1_C10, Root and Branch review of commissioned Arts and Sports services is also related to the content of this report. The options appraisal will require to take into consideration whether there is any merit in considering any other proposals, including partnerships of any or all the services identified with existing partners of the Council.

The appraisal will include options for future governance arrangements, including the possibility of community ownership of assets.

The proposal will also require a decision as to whether the Council will retain ownership of the museum and gallery collections, with these managed by the arms length body through a service level and/or other appropriate agreement, or be part of the transfer itself.

There are a variety of models for trusts, including community interest companies, which would need to be examined and evaluated as the most appropriate model for a successful cultural trust.

The Potential advantages:

- Savings on non-domestic rates – the new Trust (if a company with charitable status) should be eligible for mandatory relief on business rates
- Paying for services as required (e.g. legal)
- Freedom to pursue a single purpose
- Streamlined decision-making process would result in faster response times
- Community and business involvement, including involvement through Trustees
- Creation of sponsorship and patronage schemes that assist the Museums and Galleries Service directly
- Enhanced ability to raise income through admissions, sales and hires
- A more integrated provision of services to users

- Joint marketing and promotions across the cultural sector in Aberdeen
- Organisational change – other Trusts have demonstrated an ability to foster a sense of ownership among staff

Other considerations:

- The Council will be required to contribute to start-up and initial running costs (for example first 36 months) on a reducing basis as agreed in a service level agreement with the trust
- The Council will be required to act as guarantor for the newly established trust for a period of time
- The Council passes control of programming and promotion of activities at the museum sites and usage of collections, unless specified in the Service Agreement
- Any direct and indirect taxation issues, including VAT
- Investment will be required to bring temporary exhibition spaces in the Art Gallery to approved environmental standards to attract exhibitions which can potentially have an admission charge, subject to agreement
- Consideration of maintenance and development costs for older buildings will have to be explored to determine the most effective way to develop an arms length management organisation model
- To note that there has been no case of a successful transfer from local authority to a solely museum trust in Scotland; all are linked to wider leisure/cultural/sport trusts (e.g. Glasgow Life).

The Recommendations include scoping the requirement for an external, independent advisor to undertake the options appraisal and provide guidance and advice to the City Council. An officer working group will be established by the Director of Education, Culture and Sport, with membership from appropriate Council services, to manage the process, and determine what other information may be required, including benchmarking and best practice elsewhere. Members may be aware that work is commencing to identify and procure appropriate external advisers to assist with the delivery of a number of budget options. This work is being co-ordinated by colleagues within Corporate Governance and will be the subject of a report to Finance and Resources Committee. This report will detail the overall estimated expenditure and will seek approval to put the necessary contracts in place. It is proposed that the external advisers required to assist with the Options Appraisal be drawn from this pool. The services required to support the Options Appraisal will be paid from the monies budgeted to support the costs of externalisation detailed above.

As a result of the consultation undertaken to date two detailed responses have been received, one from UNISON and the other from Museums Galleries Scotland. These responses will be incorporated as part of the options appraisal and the consultation will continue as this work progresses.

6. IMPACT

The report relates to the cultural objectives set out in 'Vibrant, Dynamic and Forward Looking':

- Recognise the contribution of sport, culture and the arts to promoting the area as a tourist destination
- Promote the City as a tourist destination

The report relates to Outcome 13 in the Single Outcome Agreement, 'We take pride in a strong, fair and inclusive national identity'. Museum collections are held in trust for all of society.

The report also relates to the key aims set out in the Arts, Heritage and Sport strand of the Community Plan, in particular:

- To encourage access to and participation in the City's cultural life
- To support cultural activities which have a positive impact on the social, economic and cultural development of the City
- To strengthen support for and ownership of the city's distinctive cultural character

The report is consistent with the City's cultural strategy, 'Vibrant Aberdeen' as the proposals seek to increase community engagement in cultural activity, to improve the city's cultural profile and through working with partners to increase investment in cultural activity.

This report is likely to be of interest to the public as it includes a number of key and unique city centre institutions (in particular, the Art Gallery and the Maritime Museum) with local heritage, national and international profiles.

The proposal is likely to have a neutral affect on most citizens; the perception of the issues highlighted above potentially having a negative impact on the *Older* and *Others (Poverty)* equalities target groups will be positively dealt with within the options appraisal and other work.

7. BACKGROUND PAPERS

Revenue Budget: Report to Council, 10th February 2011

8. REPORT AUTHOR DETAILS

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