

ABERDEEN CITY COUNCIL

COMMITTEE	Finance, Policy and Resources
DATE	4 December 2014
DIRECTOR	Ewan Sutherland (Acting)
TITLE OF REPORT	Aberdeen Heat & Power – Charitable Status
REPORT NUMBER	CG/14/164
CHECKLIST COMPLETED	Yes

1. PURPOSE OF REPORT

This report updates Committee as to developments regarding the proposal for Aberdeen Heat and Power (“AH&P”) to change to charitable status and seeks Committee approval for this change in status.

2. RECOMMENDATION(S)

That Committee:

- (i) Approves the proposal for Aberdeen Heat and Power to change to charitable status; and
- (ii) Approves that documentation giving effect to the change in status is negotiated and signed on behalf of the Council with input from legal officers.

3. FINANCIAL IMPLICATIONS

There are no financial implications to the Council arising directly from these proposals.

4. OTHER IMPLICATIONS

Aberdeen Heat and Power is a company limited by guarantee, of which the Council is one member.

Under the Articles of Association of Aberdeen Heat and Power, the Council as a member requires to consent to amendments of certain of the articles. Under the proposals for Aberdeen Heat and Power to obtain charitable status, alterations are required to some of the provisions for which the Council's consent is required.

The underlying structure of the organisation shall remain as a company limited by guarantee, and articles preventing the Council being expelled as a member, are preserved.

Whilst the underlying entity is remaining the same, AH&P as a charity will be subject to additional duties in terms of complying with charities legislation.

5. BACKGROUND/MAIN ISSUES

The redesignation of AHP as a charity was proposed by AH&P on advice from Brodies LLP, their independent legal advisors, as part of a package of adjustments to the organisation designed to facilitate the setting up of a trading company. Previous reports to the Enterprise, Planning and Infrastructure Committee on 19th March and 21st May 2013 discussed and obtained Committee approval for the setting up of a trading subsidiary of AH&P, and subsequently District Energy Aberdeen Limited ("DEAL") was established as the trading subsidiary. The Enterprise, Planning and Infrastructure Committee also approved that officers look into the benefits of obtaining charitable status. A decision confirming that Committee approves this change in status is now sought.

There are several perceived benefits of changing to charitable status. The assets owned by AH&P as a charity would be eligible for non-domestic rates relief. Secondly, the inter-relationship between AH&P and DEAL would be tax efficient, as profits from the trading company could be donated back to the charity, AH&P, free of tax, utilising the gift aid provisions. Annually, surpluses made by AH&P could be retained for reinvestment without liability to corporation tax.

Ultimately, these benefits would seek to increase the extent to which AH&P are able to ensure that heat charges for the Council affordable housing are kept within affordable levels and also to reinvest to offset a proportion of the capital costs to the Council of new district heating developments for new affordable housing.

6. IMPACT

This proposal contributes to the 'Aberdeen – The Smarter City' vision, which includes the following priorities:

- We will provide quality services to our Council tenants to enable them to have a dry, warm home in a safe and enjoyable environment
- We will increase energy efficiency and introduce carbon reduction measures in our processes and our housing and non-housing assets to reduce our carbon footprint, save money and to bring people out of poverty

7. MANAGEMENT OF RISK

Aberdeen Heat and Power will be subject to additional scrutiny given the requirements of legislation applicable to charities and should take steps to ensure that it is compliant.

8. BACKGROUND PAPERS

Report of the Enterprise, Planning and Infrastructure Committee of 19th March 2013

Report of the Enterprise, Planning and Infrastructure Committee of 21st May 2013.

9. REPORT AUTHOR DETAILS

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