

ABERDEEN CITY COUNCIL

COMMITTEE	Audit, Risk and Scrutiny Committee
DATE	26 September 2017
REPORT TITLE	Internal Audit Report AC1722 – ALEOs – Management by Services
REPORT NUMBER	IA/AC1722
LEAD OFFICER	David Hughes
AUTHOR	David Hughes

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present the planned Internal Audit report on ALEOs – Management by Services.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee review, discuss and comment on the issues raised within this report and the attached appendix.

3. BACKGROUND / MAIN ISSUES

- 3.1 Internal Audit has completed the attached report which relates to an audit of ALEOs – Management by Services.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report.

6. MANAGEMENT OF RISK

- 6.1 The Internal Audit process considers risks involved in the areas subject to review. Any risk implications identified through the Internal Audit process are as detailed in the attached appendix.

7. IMPACT SECTION

7.1 **Economy** – The proposals in this report have no direct impact on the local economy.

7.2 **People** – There will be no differential impact, as a result of the proposals in this report, on people with protected characteristics. An equality impact assessment is not required because the reason for this report is for Committee to review, discuss and comment on the outcome of an internal audit. The proposals in this report will have no impact on improving the staff experience.

7.3 **Place** – The proposals in this report have no direct impact on the environment or how people friendly the place is.

7.4 **Technology** – The proposals in this report do not further advance technology for the improvement of public services and / or the City as a whole.

8. APPENDICES

8.1 Internal Audit report AC1722 – ALEOs – Management by Services.

9. REPORT AUTHOR DETAILS

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ABERDEEN

CITY COUNCIL

Internal Audit Report

Arm's Length External Organisations – Management by Services

Issued to:

Fraser Bell, Head of Legal and Democratic Services

Steven Whyte, Head of Finance

Euan Couperwhite, Head Of Policy, Performance and Resources

Richard Sweetnam, Head of Economic Development

John Quinn, Head of Land and Property Assets

Tom Cowan, Head of Operations, Aberdeen City Health and Social Care Partnership

Alex Stephen, Chief Finance Officer, Aberdeen City Health and Social Care Partnership
External Audit

EXECUTIVE SUMMARY

The Council has elected to provide or contribute to the provision of some services through Arm's Length External Organisations (ALEOs), where it is considered that this will be the best option for delivery of these services and providing Best Value. Typically these are arrangements which fall outwith normal direct service delivery, grant funding or commercial contractual relationships, but where there remains an element of control exercised over service delivery.

Statutory service provision remains the responsibility of the Council. Discretionary services also carry an element of reputational risk through association. It is therefore important that the relationship between the Council and ALEOs is managed effectively.

The objective of this audit was to consider how services manage their ALEOs including payments and performance. Although there are processes and agreements in place for doing so, some of these have not been well evidenced, and in some cases reliance has been placed on ALEO Governance Hubs to review performance, which was not part of their remit. The level of assurance provided to Committees varies. Education and Children's Services and the Health and Social Care Partnership have agreed to review their performance management indicators and reporting arrangements. New Assurance Hub arrangements agreed by the Audit, Risk & Scrutiny Committee in June 2017 should improve consistency going forward.

Communities Housing and Infrastructure, and Finance, have noted that subsequent to audit fieldwork taking place the ALEO arrangement with AECC Ltd has been wound up. The Finance, Policy and Resources Committee approved a contract for a new operator for the existing and new Exhibition and Conference Centres in December 2016, and a financial commitment of £1.27 million per year for 2017/18 and 2018/19 for the operation and management of the existing venue. Contractual details, including performance management are to be approved by the Head of Legal and Democratic Services, the Interim Depute Chief Executive (Director of Corporate Governance) and Head of Finance.

1. INTRODUCTION

- 1.1 Local Authorities may elect to provide services through Arm's Length External Organisations (ALEOs), where it is considered that this will be the best option for delivery of these services and providing Best Value. Typically these are arrangements which fall outwith normal direct service delivery, grant funding or commercial contractual relationships, but where there remains an element of control exercised over service delivery.
- 1.2 Whilst aspects of service delivery have been assigned to various ALEOs, the responsibility for statutory service provision remains with the Council. Discretionary services also carry an element of reputational risk through association. It is therefore important that the relationship between the Council and ALEOs is managed effectively.
- 1.3 The objective of this audit was to consider how services manage their ALEOs including payments and performance.
- 1.4 The factual accuracy of this report and action to be taken with regard to the recommendations made have been agreed with: Euan Couperwhite, Head of Policy, Performance and Resources; Richard Sweetnam, Head of Economic Development; John Quinn, Head of Land and Property Assets; Alex Stephen, Chief Finance Officer – Aberdeen City Health & Social Care Partnership, and Steven Whyte, Head of Finance.

2. FINDINGS AND RECOMMENDATIONS (General)

2.1 Background

2.1.1 The Following the Public Pound procedure, updated in September 2015, sets out key controls and sources of assurance over various levels of funding relationship between the Council and Arm's Length External Organisations (ALEOs) or grant funded organisations. Four tiers of funding have been identified:

- Tier 1 comprises ALEOs which are either: a) significant in size, and over which the Council exercises substantial control, and they are sufficiently significant that their annual results are included in the financial statements or Group Accounts; or b) there is no Group relationship but more than £7 million of public funds are provided by the Council in the delivery of the organisation's services.
- Tier 2 organisations are either: a) smaller in operational scale, but over which the Council exercises substantial control, and not sufficiently material in size to be included in the financial statements or the Group Accounts or b) financially supported with more than £300,000 of public funds, but less than £7 million.
- Tier 3 covers funding between £75,000 and £300,000; and Tier 4 between £15,000 and £75,000. Whilst there are likely to be some more formal relationships between the Council and external organisations at these levels, it is typically limited to awarding deficit funding.

2.1.2 Aberdeen City Council has identified seven ALEOS:

Tier 1:

- Aberdeen Exhibition and Conference Centre (CH&I)
- Aberdeen Sports Village (E&CS)
- Bon Accord Care (H&SCP)
- Sport Aberdeen (E&CS)

Tier 2:

- Aberdeen Heat and Power (CH&I)
- Aberdeen Performing Arts (E&CS)
- Garthdee Alpine Sports (E&CS)

2.1.3 The Finance, Policy and Resources Committee have asked the Head of Policy, Performance & Resources (E&CS) to undertake a review of sports provision across the city, taking cognisance of existing organisations providing sports facilities and present an integrated sports strategy to the committee later in the year. This will include a review of the future of Sport Aberdeen, Garthdee Alpine Sports, Adventure Aberdeen and Transition Extreme (which is neither an ALEO nor connected to the Council but has been in receipt of funding for the past few financial years through FP&R Committee). The review is anticipated to be completed by November 2017.

2.2 Agreements

2.2.1 The Following the Public Pound code of practice states that funding agreements may take different forms, but must be in writing. Funding in excess of £300,000 should be subject to a Service Level Agreement, and below that level a letter of agreement setting out the conditions of funding is required. The agreement should include non-financial targets and information.

2.2.2 Services were asked to provide copies of the signed agreements and funding letters for ALEOs funded in 2016/17. Unsigned agreements for all but one ALEO (AECC, which was only recently revised) were provided, however not all Services were able to provide

evidence of signed annual funding letters, including cases where additional funding has been awarded subsequent to the original agreement.

<u>Recommendation</u>		
Services should ensure all ALEO funding is subject to current agreements and annual funding letters issued in advance.		
<u>Service Response / Action</u>		
ECS: Agreed. Annual funding letters for 2017/18 will be issued to all ECS ALEOs.		
CHI: Agreed re Aberdeen Heat & Power. Council has a signed contract with AHP for 50 years. Funding letters are therefore contract letters issued for works done as commissioned on an individual basis. These are retained.		
CHI: Agreed for 2016/17 re AECC. However AECC Ltd no longer operates the venue from April 1 2017 and an SLA is no longer applicable as the Council has entered into a contract with SMG Europe to operate the existing venue.		
HSCP: Agreed. Annual funding letter for 2017/18 has been issued to Bon Accord Care.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
ECS: July 2017	Head of Policy, Performance and Resources (Euan Couperwhite);	Significant within audited area
HSCP: Implemented	Chief Finance Officer (IJB)	

- 2.2.3 The code of practice requires that annual funding for ALEOs in Tier 1 should be approved by the relevant Service, through its budget approval process and delegated authority arrangements or Service Committee or Finance, Policy and Resources Committee (if funding is to be approved from the 'Financial Assistance' budget or in the event of the funding being beyond the budgeted contribution, i.e. the budget set for the organisation).
- 2.2.4 Standing Orders provide that each Committee and Sub Committee shall have power to determine all applications for loans, grants, donations and subscriptions (other than those relating to the day to day operational requirements of the service which are delegated to the Chief Officer) in respect of services which are linked to or associated with the functions of that Committee or Sub Committee, so long as such amount can be contained within the approved budget for that function.
- 2.2.5 Under the scheme of delegated powers Officers have delegated authority for expenditure up to £60,000, but no specific power to award grants / deficit funding. Therefore in the absence of specific delegations, the Committee should be asked to approve annual funding.
- 2.2.6 This was the case for Bon Accord Care (2016/17 – Full Council, 2017/18 – IJB), and AECC (2016/17 – Finance, Policy & Resources). However, funding for Aberdeen Sports Village and Sport Aberdeen had not specifically been approved by the Education and Children's Services Committee for 2016/17, though savings options in respect of these funding arrangements were highlighted as part of the budget setting process.
- 2.2.7 Tier 2 ALEOs funding may be agreed via the Council's annual budget setting process (though this does not typically include detailed funding arrangements unless changes are being proposed), or through delegated authority.

Recommendation

Services should ensure they can demonstrate that all ALEO funding has been approved annually, in advance, at the appropriate level.

Service Response / Action

ECS: Agreed. A report on funding for ECS ALEOs will be provided to the Education and Children’s Service Committee meeting in January of each year. For 2017/18 a report which confirmed funding levels was presented to the Education and Children’s Services Committee on 1 June 2017.

CHI: There is no annual funding requirement for Aberdeen Heat & Power.

CHI: A procurement process was completed in December 2016 to appoint an operator for the existing and new AECC venues. SMG were successfully appointed under contract therefore AECC Ltd, who were an Aberdeen City Council ALEO, no longer operate the existing AECC venue. AECC Ltd has been wound-up and therefore will no longer be eligible for funding from ACC.

HSCP: Funding for Bon Accord Care was agreed at the IJB on 7 March 2017.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
ECS: Implemented	Head of Policy, Performance and Resources (Euan Couperwhite)	Significant within audited area

2.3 Performance

- 2.3.1 The Following the Public Pound code of practice requires Tier 1 ALEO performance to be monitored by Service Committees, through an annual report from the budget holder. This should include financial performance as well as the aims and objectives of the organisation and how these are being met, whether standards set by the Council have been met, other performance measures and targets and where applicable future plans.
- 2.3.2 Tier 2 and below ALEO performance should be monitored by the relevant Council Service, through reports provided by the ALEO, covering service and financial performance and any relevant changes.
- 2.3.3 Each ALEO agreement contains a requirement to provide performance data on an agreed basis to the aligned Council Service. The content of these are mixed. Services were requested to provide evidence to demonstrate that performance data had been received as timetabled, and to the level anticipated. Services were also requested to provide details of actions taken as a result – e.g. meetings with ALEOs to discuss performance. Education and Children’s Services have been able to demonstrate that Aberdeen Performing Arts’ performance is being monitored in accordance with their agreement. In respect of the other ALEOs, Services have not provided evidence that officers are obtaining and reviewing performance data on a regular basis.
- 2.3.4 If officers are not regularly reviewing ALEO performance information, there is an increased risk of ALEOs underperforming, or pursuing alternative strategies to those agreed, without this being identified and addressed at an early stage.

Recommendation

Services should ensure assurance is regularly obtained at an agreed level over all ALEOs’ performance.

Service Response / Action

ECS: Agreed and in place. Prior to the release of service payments, each ALEO has to submit performance data to the ECS Policy and Performance team for scrutiny. In addition, there are quarterly meetings with the University of Aberdeen and ASV to review governance and performance.

CHI: Agreed re Aberdeen Heat & Power. The Service (Land & Property Assets) has monthly meetings with Aberdeen Heat & Power to review performance, and participates in AHP Board meetings and development meetings.

CHI: Service level agreement was in place for AECC Ltd for 2016/17 where quarterly meetings were carried out to review governance and performance. However due to them being unsuccessful in the procurement exercise there is no service level agreement in place for 2017/18. This is no longer an ALEO. Quarterly performance and events data will be obtained under the new contract.

HSCP: See paragraph 3.3.3 for Bon Accord Care performance monitoring. In addition work is being undertaken to have a quarterly performance management meeting with senior officers from Aberdeen City Health & Social Care Partnership and Bon Accord Care in order to obtain further assurance over performance.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
ECS: Implemented	Head of Policy, Performance and Resources (Euan Couperwhite)	Significant within audited area
HSCP: Implemented	Chief Finance Officer (IJB)	

- 2.3.5 An ALEO Governance Hub was established as a forum for obtaining assurance from ALEOs on their governance arrangements. This also included a requirement for the Hub to report quarterly on Tier 1 ALEOs risk management arrangements to the Audit, Risk and Scrutiny Committee and twice yearly to the relevant Service Committee on aspects including operational performance, people performance, risk management and service quality. Committee reports on Tier 2 ALEOs are not subject to specific requirements on timing and content. Committee terms of reference were updated in March 2014 to reflect the Committees' new remits to receive these reports (Report CG/14/038). Officers have however stated that it was not intended for the Hub to review ALEO performance.

- 2.3.6 At Audit, Risk and Scrutiny Committee of 25 June, 2015, it was agreed that “services committees would receive a report in relation to the ALEOs they were responsible for and that in future the minutes from the ALEO Governance Hub would be reported to this committee”. At a further meeting on 9 March, 2016, to clarify the role that service committees were to undertake given that some service committees had just received the appropriate hub minutes with a report asking that they be noted, it was agreed to “refer the individual minutes, with a specific covering report prepared by the responsible Head of Service, to the appropriate service committee to consider ALEO performance against agreed performance indicators and contract.” The Committee Orders of Reference were not updated to reflect this as there were expectations that a new committee structure may be coming forward later in 2016 to be in place prior to the May 2017 elections; this was subsequently delayed by the Governance Reference Group to post elections and the report will follow the new structure discussion at Council on 23 August. So, the old Orders of Reference remain as agreed in 2014.
- 2.3.7 Performance results for ALEOs are not all being reported regularly to Service Committees. Where they have been presented, the information may be somewhat out of date by the time the ALEOs own boards have received results, discussed and approved the release of information, Service Management has considered results and met ALEO representatives to discuss them, and Committee reports have been prepared.
- 2.3.8 The Hub has a standard agenda, including discussion of the various risks and operational performance, however whilst it is clear that performance reporting arrangements have been discussed with most of the ALEOs the minutes show that few Hub meetings have received and considered operational performance data. In addition, the Hub has not met since August 2016 pending a review of its role. There has therefore been limited assurance passed on to Service Committees from this source.
- 2.3.9 It was noted by the Audit, Risk and Scrutiny Committee in September 2016 that specific covering reports would be prepared by the responsible Heads of Service and submitted to the appropriate Service Committees to consider ALEO service delivery and performance against agreed performance indicators and contract. As at February 2017 this had only been provided in respect of two of the seven ALEOs: Communities Housing and Infrastructure Committee in November 2016 in respect of Aberdeen Exhibition and Conference Centre; and to Education and Children’s Services Committee in September 2016 regarding Aberdeen Performing Arts. Each included brief notes on ALEO performance, as at an undisclosed date, and appended the minutes of the May 2016 Hub meeting at which governance and risks had been discussed.
- 2.3.10 It is apparent that the role of Service Committees, the Governance Hub, and Service Management have not been clearly set out and adhered to, resulting in only limited assurance being provided to Service Committees on the performance of their ALEOs. As a result it will be difficult for them to determine whether ALEOs are delivering the anticipated outcomes, and to direct management action as appropriate.

Recommendation

Services should ensure that Service Committees are regularly provided with assurance at an agreed level over ALEOs’ performance and service quality.

Service Response / Action

Agreed. In June 2017 the Audit, Risk & Scrutiny Committee approved the adoption of a new Assurance Hub model, covering governance, risk management and financial management. Service directorates will be responsible for providing assurance to service committees on service performance and ensuring that ALEOs are complying with their contractual obligations to the Council. The model also includes that ALEO accounts would be presented to Finance on a quarterly basis to support the quarterly

reporting of Group Accounts to the Finance, Policy and Resources Committee in light of the bond issue.

ECS: Agreed. Each ALEO is required to submit its annual business plan to the Education and Children's Services Committee. This contains detail on performance measures and service update reports will be submitted every 6 months for Committee review and consideration.

CHI: Agreed for Aberdeen Heat & Power. This will be put in place for Aberdeen Heat & Power in 2017.

CHI: Agreed re AECC and was in place. The ALEO was required to submit its annual audited accounts to ACC for scrutiny. In addition, minutes from the ALEO Governance Hub were also reported to Committee for review. This is no longer an ALEO. Quarterly performance and events data will be obtained under the new contract.

HSCP: Agreed. A private report was presented to the IJB on 28 March and the Managing Director of Bon Accord Care spoke to this report providing the Board with information about the future strategic direction of Bon Accord Care and the performance to date. Minutes from the ALEO Governance Hub were reported to the Audit & Performance Systems Committee of the Integration Joint Board. Reports will be submitted every 6 months for Board review and consideration.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
ECS: Implemented	Head of Policy, Performance and Resources (Euan Couperwhite);	Significant within audited area
CHI: AHP: December 2017	Head of Land & Property Assets (John Quinn)	
HSCP: Implemented	Chief Finance Officer (IJB)	

2.4 Payments

2.4.1 The ALEO agreements generally separate payment from performance. The agreements are contingent on adequate performance, and information being received, but payments are generally scheduled on a periodic basis. Whilst some Services ensure that performance information has been received, and is satisfactory, before payments are approved, this is not the case for the majority of ALEOs reviewed. Although the agreements require performance indicators to be reported, and some (AECC) include targets, only the agreement with Bon Accord Care specifies required performance parameters.

2.4.2 As with a contract, if performance is not satisfactory, Services would engage with the ALEO under the terms of their agreement. In the unlikely event that issues could not be resolved the agreement could be considered breached and subsequently ended, however this presents a number of risks: it could take some time to resolve performance issues through mutual agreement, and payments would continue in the interim though might not achieve best value for the Council's resources. Ending agreements, other than at the end of their specified term, is unlikely to be straightforward – alternatives for service provision would need to be put in place (and many agreements therefore include a 'step-in' option for the Council to take over the activity in such a case). It may also be difficult to justify to

elected members and the public. This option is therefore unlikely to be exercised lightly as a result of variations in performance.

- 2.4.3 Alternative options, for example withholding or reducing the value of payments pending performance improvements, are not currently explicitly specified in the majority of the existing agreements. Including such options in future agreements could improve Services ability to maintain their assurance over ALEO performance and outcomes by providing additional incentive to deliver performance at the required level. There is however a risk that such action might impact on the financial position of ALEOs, which could itself impact on performance.

<u>Recommendation</u>		
Services should review options for performance management within future ALEO agreements.		
<u>Service Response / Action</u>		
ECS: Agreed. Work has already taken place with Sport Aberdeen to review performance management KPIs and this will be reflected in the work with other ECS ALEOs.		
CHI: Agreed for Aberdeen Heat & Power. AHP have their own KPIs which are part of performance reporting to their own Board. These are intended to be reviewed by Land & Property Assets to match our KPI performance reporting.		
CHI: Re AECC: Performance management KPIs were included in the 2016/17 ALEO service level agreement. This is no longer an ALEO. Quarterly performance and events data will be obtained under the new contract.		
HSCP: Agreed, new performance management KPIs will be added to the Bon Accord Care contract during the renewal process for 2018.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
ECS: July 2017	Head of Policy, Performance and Resources (Euan Couperwhite);	Significant within audited area
CHI: AHP: December 2017	Head of Land & Property Assets (John Quinn)	
HSCP: July 2018	Chief Finance Officer (IJB)	

- 2.4.4 The majority of ALEOs issue invoices for their funding payments, and apply VAT as appropriate to their individual circumstances. The VAT treatment is determined by the nature of the service that the ALEO is providing and its trading relationship with the Council.

- 2.4.5 Although many of the payments to ALEOs under their agreements (aside from services purchased on an ad-hoc basis) appear at face value to represent deficit funding or contributions towards their activities, rather than provision of specific services, a VAT tribunal in 2012 determined liability for VAT on payments to Aberdeen Sports Village - because Aberdeen Sports Village is financially controlled by the Council, and the Council also receives taxable benefits such as staff priority access to facilities. Sport Aberdeen and Garthdee Alpine Sports have applied similar arguments for payments received from the Council.
- 2.4.6 The payment to Aberdeen Performing Arts is considered by the Council to be a freely given donation, therefore VAT is not applied. However, the Service Agreements in place present a number of contractual obligations, including Council approval of APA's detailed business plans and the purposes for which service payments may be used, specific elements of the Music Hall upgrade programme, and a requirement for mutual agreement of Activity Plans and their delivery to the reasonable satisfaction of the Council. Aberdeen Performing Arts was subject to a VAT inspection in June 2016, and no issues were raised with the Council's contribution.
- 2.4.7 The Service Agreement for payments to AECC Ltd, which had no VAT applied, also presented contractual obligations for delivery of services, including delivery of the objectives of the Regional Economic Strategy, an annual independent economic impact analysis, and promotion of and assisting with design and technical reviews for the new AECC. Additional funding was also provided, on the basis of a standard rated VAT invoice, for additional marketing of the new venue. The new contract was subject to tender, as a commercial relationship exists with the operator of the new Centre.
- 2.4.8 Finance has stated that although the contracts include these clauses the Council does not itself receive any direct benefits from these conditions hence the VAT treatment as outside the scope. Ultimately it is the ALEOs that are responsible for ensuring VAT has been treated correctly on their invoices, and if HMRC consider that VAT has been excluded, it is the ALEOs which will be penalised by HMRC. Nevertheless, the Council has taken advice from VAT experts and from HMRC to ensure that the correct treatment of VAT has been applied on ALEO payments. VAT inspectors also routinely carry out checks on the treatment of VAT by the Council, and have considered payments to ALEO's as part of their inspection work. The VAT treatment is determined by the nature of the service that the ALEO is providing and its trading relationship with the Council. If it were determined that in a specific instance VAT should have been charged but hasn't been then it is acceptable for the ALEO to raise a VAT-only invoice to the Council for the missing VAT, and the Council would be able to reclaim this VAT back from HMRC so the situation would be VAT neutral for the ALEO, the Council and HMRC. Although the ALEO could still be liable to penalties and interest in this situation, these could be reduced by demonstrating the VAT neutral position to HMRC.
- 2.4.9 In such a case there would be a reputational risk for the Council through association, and should there be a financial impact on the ALEO additional resources may be required to address any risks to service delivery. The Council's VAT officer considers that the correct VAT treatment has been applied by all its ALEOs and that any such risk is minimal.

3. FINDINGS AND RECOMMENDATIONS (Specific)

Tier 1 ALEOs

3.1 Aberdeen Exhibition and Conference Centre

- 3.1.1 Although the Service was able to provide a copy of the final agreement (dated 5 April 2016) with AECC Ltd, it was unable to evidence that a copy had been signed by both parties. In the absence of a signed agreement there is a risk in the event that either party considers obligations have not been fulfilled.
- 3.1.2 Approximately £1.2 million was paid in 2015/16, which included the provision of services (see 2.4.7) in addition to deficit funding. Funding of £1.12 million for 2016/17, as part of a new Service Level Agreement, was agreed by Finance, Policy & Resources Committee in April 2016.
- 3.1.3 Except as part of the annual group accounts process, and the last Governance Hub in August 2016, the financial position of AECC was not monitored strictly in line with the terms of the agreement during 2016/17. Finance has stated that alternative additional scrutiny had been applied during development of proposals and tendering for the new contract, pending conclusion of the ALEO arrangements in March 2017.
- 3.1.4 A tendering exercise was completed in 2016 to appoint an operator for the venue which is being built to replace Aberdeen Exhibition and Conference Centre. A contract is now in place, instead of an ALEO.
- 3.1.5 Although the 2016/17 service agreement with the current operator (AECC Ltd) included that "The Company shall, using existing staff resources, actively promote the New ACC", an additional £170,000 was paid to help them to market the new venue. There are no specific terms and conditions attached to the additional payment, nor a requirement for evidence of expenditure incurred before payments were released. The Service provided a copy of the business case presented by AECC Ltd, which sets out reasons for the funding being requested and measures which could be provided to demonstrate its application. However, it has not provided details of any separate agreement, or evidence that the additional funding was approved at an appropriate level.
- 3.1.6 In the absence of clarification from the Service, it is not clear whether the additional award was authorised, whether sufficient assurance is being sought that best value is being achieved with the funding, and that the full amount is being spent prior to each instalment being paid over.

Recommendation

The Service should provide assurance that the additional funding for AECC was approved at the appropriate level, clear agreements were in place to document its use, and arrangements were in place to evidence best value is being obtained.

Service Response / Action

On 27 June 2016 Audit Scrutiny and Risk Committee noted the £170k additional spend identified through the ALEO Governance Hub report. In May 2016 the AECC Development Project Board agreed the promotional budget was to come from the new AECC budget. The additional funding was included in the new AECC development budget to promote the new venue. This was to ensure the new venue and operator had sufficient time to maximize the opportunities to attract top events to Aberdeen.

Audit Comment

Grading

The Audit Risk and Scrutiny Committee is not a policy committee and therefore does not approve the use of funds. Although a plan for use of the funding has been evidenced, the Service has not provided assurance that performance and results against this plan were reviewed.	Significant within audited area
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- 3.1.7 Performance information is provided to the Service, and has been reported to the Communities Housing & Infrastructure Committee, however there is a substantial delay between the end of the reporting period, and presentation to Committee.
- 3.1.8 The Service has stated that Board meetings are attended by the budget holder, and inform the decision to release payments, however evidence has not been provided to demonstrate attendance or how this informs decision making on payments.
- 3.1.9 VAT has not been applied to the annual funding payments to AECC Ltd as it considers that the funding is outside the scope of VAT and not for provision of a service. It has been applied to the additional marketing payments as it considers that this is a payment for providing services to the Council. This is further discussed at 2.4.7-2.4.9 above.

3.2 Aberdeen Sports Village

- 3.2.1 There is a signed copy of the operating agreement on file, but the Service has been unable to provide a copy of the 2016/17 funding award letter. Over £1.32 million was paid in 2015/16, which included the provision of services in addition to deficit funding.
- 3.2.2 Although payments are usually made to Aberdeen Sports Village quarterly, one payment for a single month was identified. If payments are not made at a consistent frequency there is a risk of duplicate or overlapping payments being made inadvertently. The Service has been unable to provide details of controls in place to avoid duplicate payments.

<u>Recommendation</u>		
The Service should ensure payments are made in line with the agreed frequency.		
<u>Service Response / Action</u>		
Agreed. Payments will be made in line with the agreed profile. It should be noted that the annual year for Aberdeen Sports Village is not in line with the local authority but is based on the University of Aberdeen's financial year.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
Implemented	Head of Policy, Performance and Resources (Euan Couperwhite)	Important within audited area

- 3.2.3 The Service has stated that performance is being monitored, and discussed with the budget holder prior to releasing payments, however has been unable to provide evidence to demonstrate that this is the case.
- 3.2.4 VAT is being applied to payments to Aberdeen Sports Village. The First Tier Tribunal held in 2012 determined that the payments are consideration for supplying services, and that VAT is applicable.

3.3 Bon Accord Care

- 3.3.1 There is a Service Level Agreement covering Bon Accord Care's relationship with the Council. Whilst there is evidence supporting the agreed amounts to be paid, and subsequent in-year adjustments, there were no formal advance funding agreement letters held on file. In 2015/16, £167,000 was paid to Bon Accord Care Ltd, and £28.9 million to Bon Accord Support Services Ltd. These include charges for specific services in addition to those payable under the Service Agreement.
- 3.3.2 Annual performance reports are prepared by Bon Accord Care, along with their financial report and accounts.
- 3.3.3 Care commissioned from Bon Accord Care is subject to contract monitoring via the Commissioning and Contracts Team, against individual service specifications for residential services, care at home and housing support services. The Team uses a standard contract monitoring framework for this purpose in line with the treatment of any other externally commissioned service. There are a range of weekly and monthly statistics obtained, and visits are undertaken to residential premises and meetings are held with Bon Accord Care staff.
- 3.3.4 The provision of Learning and Development services and other aspects of the agreement are not monitored by this team. The Service has not provided details of how other services and performance are monitored.

3.4 Sport Aberdeen

- 3.4.1 A copy of the funding agreement letter for 2016/17 has been provided, showing funding of £5,458,903 for 2016/17. The Service has been unable to provide a copy of the Service Level Agreement (or similar) with Sport Aberdeen for this or additional awards for "investment agreement: ACC and SportScotland" (£174,600) and "Active Schools" (£16,662).
- 3.4.2 The April 2016 meeting of the Finance, Policy and Resources Committee considered a report on the Contract Revision and Governance Arrangements for Sport Aberdeen. Within the report it was stated that Sport Aberdeen needs to raise £5 million over five years to invest in the Council's facilities, and that it was agreed to delegate authority to the Head of Finance to provide a bank guarantee to the lender as the contract with Sport Aberdeen is due to expire in 2020.
- 3.4.3 The report stated that there are safeguards in terms of the amount of debt taken on by Sport Aberdeen in the annual Business Plan which is approved each year by the Education and Children's Services Committee, and which should be monitored every six months by the ALEO Governance Hub. However, there have been no Hub meetings since August 2016, and the position has not been specifically monitored since.

Recommendation

The Service should ensure that the amount of debt taken on by Sport Aberdeen is being monitored.

Service Response / Action

Agreed. The Service will work in conjunction with the Finance Service to monitor the level of debt being taken on by Sport Aberdeen. Finance will authorise each draw down on the bank funding available up to £5m. The financial position has been reviewed as part of the group accounts at 31 March 2017. There were no debts at 31 March, other than routine trade creditors. The new quarterly reporting arrangements will ultimately mean that the debt position is considered on a quarterly basis.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
Implemented	Head of Policy, Performance and Resources (Euan Couperwhite)	Important within audited area

- 3.4.4 As part of a historical arrangement the Council has been paying 11% of the monthly electricity costs (approximately £3,000 per month) for the sports complex and ballroom at the beach (for use of the ballroom) to Sport Aberdeen. This has recently been queried, and meters have been installed to enable accurate readings to be taken for the ballroom. Initial review by officers suggests that the actual usage is substantially lower than has been paid for. The Service is continuing to investigate with a view to correcting payments going forward.
- 3.4.5 The Service has stated that performance is being monitored, and discussed with the budget holder prior to releasing payments, however has been unable to provide evidence to demonstrate that this is the case.
- 3.4.6 VAT is being applied to payments to Sport Aberdeen, because it considers that the payments made are for services provided.

Tier 2 ALEOs

3.5 Aberdeen Heat and Power

- 3.5.1 Agreements dated 2003 and 2005 have been provided to the ALEO Governance Hub. These refer to initial payments towards works, of £215,000 per annum, capped at £1 million or the cost of the works if lower. There was no ongoing funding in 2015/16 and 2016/17. The operating costs of Aberdeen Heat and Power are recovered via charges made for the energy supplied, and there is no direct contribution towards the operating costs from the Council. The Council may provide funding towards the cost of new district heating schemes, specifically in relation to the buildings that it owns. Over £2.1 million was paid for services (the provision of heat and power to various buildings, mainly HRA properties and a school) in 2015/16.
- 3.5.2 In November 2016 the Communities, Housing & Infrastructure Committee agreed that Aberdeen Heat and Power's performance would be measured according to KPI headings, which were to be developed by Aberdeen Heat and Power. In order to ensure Council funds are being used as planned the Council should specify the levels of performance and how they will be reported, rather than the ALEO. The recommendations at 2.3.4 and 2.4.3 apply.

3.6 Aberdeen Performing Arts

- 3.6.1 There are various funding agreements in place with Aberdeen Performing Arts (APA). These include £1 million towards Music Hall upgrades in 2016/17, a £720,000 Service Level Payment, £171,000 for management of the Lemon Tree, and £75,000 for Lets.
- 3.6.2 Performance indicators are required to be reported to the Service, which receives them in line with the service agreement. These were formerly reported to the Governance Hub, and the Education and Children's Services Committee thereafter, but have not been reported since the Hub last met in August 2016.
- 3.6.3 There is no VAT applied to payments to Aberdeen Performing Arts, and it is considered by the Council to be a freely given donation. There are specified services within parts of

the service agreements, and they are referred to as Service Payments – see discussion at 2.4.6-2.4.9.

3.7 Garthdee Alpine Sports

3.7.1 The agreement received in respect of Garthdee Alpine Sports is dated 2007, and may be out of date. The Service has been unable to provide a copy of the funding letter confirming the agreed awards for 2016/17.

3.7.2 The Council approved £202,000 of funding for Garthdee Alpine Sports for 2016/17, which is quoted in Garthdee Alpine Sports' business plan agreed by the Finance Policy & Resources Committee in September 2016. However, if equal payments continue to be made quarterly, the total paid to the organisation will be £210,600 – which is what was awarded the previous year.

Recommendation

The Service should ensure the payments being made to Garthdee Alpine Sports are in line with the value agreed.

Service Response / Action

Agreed. This will be reflected in 2017/18 payments.

Implementation Date

Implemented

Responsible Officer

Head of Policy,
Performance and
Resources (Euan
Couperwhite)

Grading

Important within audited
area

3.7.3 The Service has stated that performance is being monitored, and discussed with the budget holder prior to releasing payments, however has been unable to provide evidence to demonstrate that this is the case.

3.7.4 VAT is being applied to payments to Garthdee Alpine Sports, because it considers the payments made are for services provided.

AUDITORS: D Hughes
C Harvey
A Taylor

Appendix 1 – Grading of Recommendations

GRADE	DEFINITION
Major at a Corporate Level	The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss, or loss of reputation, to the Council.
Major at a Service Level	<p>The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss to the Service/area audited.</p> <p>Financial Regulations have been consistently breached.</p>
Significant within audited area	<p>Addressing this issue will enhance internal controls.</p> <p>An element of control is missing or only partial in nature.</p> <p>The existence of the weakness identified has an impact on a system's adequacy and effectiveness.</p> <p>Financial Regulations have been breached.</p>
Important within audited area	Although the element of internal control is satisfactory, a control weakness was identified, the existence of the weakness, taken independently or with other findings does not impair the overall system of internal control.