

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Audit, Risk and Scrutiny
<b>DATE</b>	25 September 2018
<b>REPORT TITLE</b>	Audit Scotland report on councils' use of arms-length organisations
<b>REPORT NUMBER</b>	GOV-18-078
<b>CHIEF OFFICER</b>	Fraser Bell
<b>REPORT AUTHOR</b>	Iain Robertson
<b>TERMS OF REFERENCE</b>	Remit - 1.3

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### 1. PURPOSE OF REPORT

- 1.1 To introduce Audit Scotland's recently published report on *Councils' use of arms-length organisations* and to outline the Council's proposed response to the report's recommendations.

### 2. RECOMMENDATIONS

That the Committee:-

- 2.1 Review, discuss and comment on Audit Scotland's report attached as **Appendix A**;
- 2.2 Note that there were no direct recommendations for Aberdeen City Council within Audit Scotland's report; and
- 2.3 Endorse the Council's proposed response to the report's recommendations.

### 3. BACKGROUND

- 3.1 On 17 May 2018, Audit Scotland published its report on *Councils' use of arm's length organisations* (attached as **Appendix A**). The purpose of the report was to review the Arms-Length External Organisation (ALEO) landscape across Scotland and make recommendations to councils on the best way to oversee ALEOs and ensure ALEOs provide best value.
- 3.2 Audit Scotland notified the Council on 6 July 2017 that it had been chosen as one of the case studies for an in-depth review of ALEOs and that the review

would focus primarily on Bon Accord Care, with a more limited desktop review of Aberdeen Heat and Power.

- 3.3 To support Audit Scotland's review, Aberdeen City Council and Bon Accord Care provided the auditors with requested documentation and facilitated an on-site visit to Aberdeen between 31 October - 1 November 2017. During this visit, the auditors met with senior representatives from the Council, the Aberdeen City Health and Social Care Partnership and Bon Accord Care. The auditors also observed an ALEO Assurance Hub meeting and held a roundtable with a Council Co-Leader, the Convener and Vice Convener of the Audit, Risk and Scrutiny Committee and Vice Chair of the Integration Joint Board.
- 3.4 Audit Scotland reported that all sample councils had appropriate governance processes for overseeing ALEOs but more effective practice included scrutiny proportionate to the risks involved, and clear roles and responsibilities for councillor and officer oversight. Audit Scotland particularly highlighted Aberdeen City Council's ALEO Assurance Hub model as an example of effective practice in the oversight of ALEOs.
- 3.5 The report made a number of recommendations for all councils to consider and provided case studies of good practice to learn from. The ALEO Assurance Hub terms of reference requires the Chief Officer Governance to carry out an annual review of the Hub's remit and functions. All relevant improvement actions within the report will be considered during this review before submission to the Audit, Risk and Scrutiny Committee on 4 December 2018. The report will also inform the Commissioning function's review of the Council's contract management arrangements.
- 3.6 With the development of the new Commissioning function, this report is also helpful in respect to recommendations on:
  - (a) Preparing options appraisals, with increased public involvement;
  - (b) Monitoring ALEO performance and contractual compliance; and
  - (c) Implementing review periods to assess whether ALEOs remain the most effective way to deliver Council priorities and achieve best value.
- 3.7 The Council's response to each of Audit Scotland's recommendations has been outlined below.
- 3.8 **Recommendation 1:**  
**In deciding whether an ALEO is the best way to provide services over the longer term, while providing value for money, councils should examine wider options that can bring similar benefits to ALEOs such as reorganising an existing service, sharing services with other councils, or involving the local community.**
- 3.8.1 Responsibility for meeting this recommendation rests with the **Director of Commissioning**. This will involve reviewing the Council's strategic

commissioning priorities for ALEOs on an annual basis, and an ongoing review of ALEOs engagement and involvement in key decisions from customers and the public. By actioning this recommendation, the Council would adhere to provisions within the Community Empowerment (Scotland) Act 2015, particularly in relation to Participation Requests, which provide communities with an opportunity to design and shape local services delivered by public bodies.

The **Strategic Commissioning Committee** would be responsible for decision making in this area and assess whether ALEOs remained the most effective model for providing public services and delivering Council outcomes through its consideration of ALEO business plans and during interim contractual review periods.

### **3.9 Recommendation 2:**

**In deciding whether an ALEO is the best way to provide services over the longer term, while providing value for money, councils should demonstrate how ALEOs help the Council meet its objectives and improve outcomes for their communities.**

- 3.9.1 Responsibility for meeting this recommendation will rest with the **Director of Commissioning**. This will involve the development of a high-level performance framework for ALEOs linking to the Local Outcome Improvement Plan (LOIP). This approach would allow the Council to monitor ALEO performance and whether they continued to provide best value, whilst recognising that ALEOs are independent entities with their own boards and management structures that are entitled to oversee operational matters. Building upon the work of the ALEO Assurance Hub, the Commissioning function will review its current contract management arrangements which will incorporate the high-level performance framework. This will be done in collaboration, where appropriate with the Aberdeen City Integration Joint Board which plays an important role with respect to Bon Accord Care.

The **Strategic Commissioning Committee** would review the ALEO annually and determine whether ALEOs had been meeting Council and LOIP outcomes and whether they continued to provide best value to the Council.

### **3.10 Recommendation 3:**

**In deciding whether an ALEO is the best way to provide services over the longer term, while providing value for money, councils should set clear criteria for reviewing an ALEO, considering risks, performance and how it fits with council priorities.**

- 3.10.1 Responsibility for meeting this recommendation will rest with a number of teams within the Council. Firstly, the **Commissioning teams** will be required to incorporate Audit Scotland's recommendations into its ongoing review of ALEO service level agreements to ensure that Council expectations on performance and achievement of outcomes were clear within the revised contracts and that agreement could be reached on contractual interim review periods. Ongoing contract management processes will ensure performance is reviewed regularly and that there is a clear link to improving outcomes.

Secondly, it would be within the remit of the **Strategic Commissioning Committee** to annually review ALEOs and their business plans and assess ALEO compliance against contract on the delivery of outcomes and best value.

And thirdly, the **ALEO Assurance Hub** will continue to monitor ALEO management of risk, through receipt of ALEO risk registers and thereafter report its level of assurance to the **Audit, Risk and Scrutiny Committee**. The Hub's remit is due to be reviewed by the Audit, Risk and Scrutiny Committee on 4 December 2018 and this will take into account the findings of Audit Scotland.

### **3.11 Recommendation 4:**

**Councils should continue to apply the Following the Public Pound (FtPP) principles ensuring that they oversee the performance, financial position, and associated risks of ALEOs.**

3.11.1 As noted above, there will an increased role for the **Strategic Commissioning Committee** in terms of reviewing ALEOs annually and their business plans.

The Council can continue to follow the public pound through:

- (1) **ALEO Assurance Hub** reporting to the **Audit, Risk and Scrutiny Committee** on the financial governance arrangements in place for ALEOs; and
- (2) The inclusion of Tier 1 ALEOs (Aberdeen Sports Village, Bon Accord Care and Sport Aberdeen) financial performance within the quarterly report to the City Growth and Resources Committee as part of the Council's Financial Performance report to provide assurance to Council and its creditors on the Council's bond issue.

### **3.12 Recommendation 5:**

**Councils should continue to apply the Following the Public Pound (FtPP) principles ensuring that they have clear reasons for appointing councillors and officers to ALEO boards, recognising the responsibilities and requirements of the role, and the risks of conflicts of interest.**

3.12.1 Prior to the 2017 local government elections, the Head of Legal and Democratic Services oversaw the review of outside bodies (including ALEOs) that Members were appointed to. Following the review, the number of outside bodies that Members were appointed to was reduced. On 23 August 2017, Council agreed to continue to appoint Elected Members to fill Councillor vacancies on ALEO boards for the time being, but with a framework of safeguards built around these appointments. Additional safeguards include enhanced training to help ensure Elected Members have clarity on their responsibilities to the ALEO, conflict of interest risks and their potential liability.

3.12.2 The policy on Appointments of Elected Members to Outside Bodies will be reviewed by the **Chief Officer Governance** in light of Audit Scotland's findings and any recommendations will be brought to Council for consideration possibly in 2020 or 2021. The revised policy will provide a framework to inform a further review of member appointments to outside bodies (including ALEOs) ahead of the local government elections in 2022.

**3.13 Recommendation 6:**

**Councils should continue to apply the Following the Public Pound (FtPP) principles ensuring that they provide training, support and advice from both the perspective of the Council and the ALEO. This should include legal responsibilities, scrutiny and oversight, and conflicts of interest.**

3.13.1 The Council delivers induction training for Elected Members which includes a dedicated session on appointments to outside bodies which covers Members legal responsibilities; scrutiny and oversight; and managing conflicts of interest. **The Governance function** also delivers training sessions for Elected Members following local government elections and when there have been significant legislative changes or revisions to the Councillors Code of Conduct, to provide guidance and support for Councillors that serve on ALEO boards. The Council will explore opportunities for delivering joint training sessions with ALEOs to make the best use of resource and ensure consistent messaging through discussions at the **ALEO Strategic Partnership**. The **ALEO Assurance Hub** will continue to report regularly to the **Audit, Risk and Scrutiny Committee** on the robustness of each ALEO's Board induction and training programmes.

**3.14 Recommendation 7:**

**Councils should continue to apply the Following the Public Pound (FtPP) principles ensuring that they have processes in place to manage any potential conflict of interest of Elected Members and officers involved in the operation of ALEOs.**

3.14.1 As noted in para 3.12.1, Full Council agreed an Appointment of Elected Members to Outside Bodies Policy on 23 August 2017 which is monitored by the **Chief Officer Governance**. This policy outlined procedures and guidance for Elected Members to follow when serving as Directors or Trustees on an ALEO board. The Council does not currently have any officers serving as Board Directors on ALEOs which are under the remit of the ALEO Assurance Hub, and it is not recommended that this position change owing to the potential for conflicts of interest. Elected Members are also subject to the Councillors Code of Conduct which set standards on the relationships between Councillors and Council employees and Elected Member appointments to partner organisations.

**3.15 Recommendation 8:**

**Councils should continue to apply the Following the Public Pound (FtPP) principles ensuring that they take an active role in managing their**

**relationship with ALEOs, including their compliance to service level agreements, contracts and other obligations.**

3.15.1 In addition to an increased role for the **Strategic Commissioning Committee** in terms of reviewing ALEO annual performance and contribution to the LOIP as outlined in para 3.9.1, the Council has also established an **ALEO Strategic Partnership** which provides a forum for senior Council officers to meet with ALEO Managing Directors on a regular basis to discuss strategic and business planning and any existing risks and issues. This forum aims to strengthen the relationships between the Council and its ALEOs.

### **3.16 Recommendation 9:**

**Councils should continue to apply the Following the Public Pound (FtPP) principles ensuring that they make information about ALEO funding and performance clear and publicly available.**

3.16.1 Meeting this recommendation will require action from both the Council and its ALEOs. With regards to the Council, the **ALEO Assurance Hub** currently records the level of annual funding the ALEOs receive from the Council on each occasion it reports to the **Audit, Risk and Scrutiny Committee** and Tier 1 ALEO financial performance is incorporated into the Council's quarterly Financial Performance report to the **City Growth and Resources Committee**. However, officers recognise that this information could be made more readily available on the Council's external website and work is ongoing to develop a dedicated ALEO page on the Council's website which will contain key governance and contact information for each ALEO. This will also help to underline the corporate relationship between the Council and its ALEOs and raise public awareness about the Council's use of ALEOs to deliver public services. The Council will also continue to explore further opportunities for enhanced transparency.

3.16.2 With regards to ALEOs, Audit Scotland's report noted that ALEOs would adhere to best practice if they clearly signposted on their websites where:

- (1) The public could enquire about facilities and services;
- (2) Submit a Freedom of Information Request; and
- (3) Lodge a complaint.

## **4. FINANCIAL IMPLICATIONS**

4.1 There are no direct financial implications arising from this report.

4.2 The role of the ALEO Assurance Hub is to ensure that ALEOs provide assurance that risks, including financial ones are identified and managed. One of the Hub's primary functions is to ensure that the Council is able to follow the public pound as outlined in Accounts Commission guidance.

## 5. LEGAL IMPLICATIONS

- 5.1 Audit Scotland have recommended a number of areas where councils could improve in relation to options appraisals and the preparation of business cases which will require input from Legal colleagues.

## 6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
<b>Financial</b>	Financial Failure of ALEOs impacting on the Council and its bond issue.	(L)	<p>Audit Scotland's report notes that the Council has appropriate governance arrangements in place through the ALEO Assurance Framework to ensure effective oversight of ALEOs to mitigate financial risk.</p> <p>ALEOs report financial performance and governance to their boards and present their annual accounts for scrutiny by an external auditor.</p> <p>Tier 1 ALEO financial performance is incorporated into the Council's quarterly financial performance report to the City Growth and Resources Committee providing further assurance on financial performance.</p>
<b>Legal</b>	ALEO service level agreements are not up to date and ALEOs are not delivering on Council outcomes.	(L)	<p>The Legal Team within Commercial and Procurement Services are currently reviewing ALEO service level agreements to ensure they remain robust and fit for purpose.</p> <p>The Strategic Commissioning Committee will have oversight of how ALEOs are</p>

			achieving Council outcomes and complying with the terms of their service level agreements.
<b>Employee</b>	Conflicts of interest arising due to Council officers serving as Directors on ALEO boards.	(L)	The Council does not currently have any officers serving as ALEO Directors on boards that are overseen by the Assurance Hub. The Council's Appointment of Elected Members to Outside Bodies Policy will be reviewed further to consider the findings of Audit Scotland's report.
<b>Customer</b>	ALEOs are unaccountable to the public in terms of how they deliver services and spend public money.	(L)	<p>The Audit Scotland report recommends increased involvement of service users and local communities in ALEO decision making.</p> <p>ALEOs are scrutinised by the ALEO Assurance Hub which reports its level of assurance to the Audit, Risk and Scrutiny Committee.</p> <p>Tier 1 ALEO financial performance is incorporated into the Council's quarterly financial performance report to the City Growth and Resources Committee providing further assurance on financial performance.</p> <p>The Council will continue to discuss with ALEOs further opportunities to enhance transparency.</p>
<b>Environment</b>	No direct risks arising from the report's recommendations.		
<b>Technology</b>	No direct risks arising from the report's recommendations.		



<b>Reputational</b>	ALEO corporate governance or service delivery failure has a negative impact on the Council's reputation.	(L)	<p>The ALEO Assurance Hub provides assurance to the Audit, Risk and Scrutiny Committee on each ALEO's governance and approach towards financial management and risk management.</p> <p>Tier 1 ALEOs financial performance is incorporated into the Council's quarterly financial performance report to the City, Growth and Resources Committee providing further assurance on financial performance.</p> <p>The Strategic Commissioning Committee will have oversight of ALEO contractual compliance and delivery of outcomes.</p> <p>The Council has established an ALEO Strategic Partnership which is a six-weekly forum attended by senior Council officers and ALEO Managing Directors to discuss strategic and business planning; and manage reputational issues.</p>
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## 7. OUTCOMES

<b>Design Principles of Target Operating Model</b>	
	<b>Impact of Report</b>
<b>Governance</b>	The Council supports the principles outlined in the Account Commission's Following the Public Pound guidance by providing oversight of ALEOs to receive assurance on the robustness of their governance arrangements and delivery of Council outcomes.
<b>Partnerships and Alliances</b>	ALEOs are key partners in the delivery of the Local Outcome Improvement Plan and particularly support

	<p>the themes of Prosperous Economy, Prosperous People and Prosperous Place.</p> <p>The Council will continue to explore where ALEOs could strengthen their alignment with the LOIP to ensure their activities deliver on outcomes.</p>
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## 8. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Equality &amp; Human Rights Impact Assessment</b>	Sections 1,6 and 8 of the EHRIA have been completed and sent to the Equalities Team.
<b>Privacy Impact Assessment</b>	Not required
<b>Duty of Due Regard / Fairer Scotland Duty</b>	Not applicable

## 9. BACKGROUND PAPERS

CG/17/083: Appointment of Elected Members to Outside Bodies – reported to Council on 23 August 2017.

## 10. APPENDICES

**Appendix A** – Audit Scotland report on *Councils' Use of Arms-Length Organisations*.

## 11. REPORT AUTHOR CONTACT DETAILS

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