

THE HIGHLAND COUNCIL
EDUCATION CULTURE AND SPORT COMMITTEE

14 JANUARY 2010

Agenda Item	
Report No	

Alternative Delivery Mechanisms for all or some of Community Learning and Leisure Services – Discussion Paper

Report by Director of Education, Culture and Sport Service

SUMMARY

The purpose of this discussion paper is to consider whether The Highland Council may wish to pursue the management and delivery of some or all of its sports, leisure, community and cultural facilities and services through a Trust type organisation.

Forming such a partnership would contribute to the following commitment in **Strengthening the Highlands** Continue to pursue best value for our residents and service users, seeking efficiencies in the way we work and continuously review the Council's spending programmes. We will modernise our services to achieve an annual 2% efficiency savings target.

This programme would contribute to delivery of Single Outcome Agreement National Outcome 15 "Our public services are high quality, continually improving, efficient and responsive to local people's needs".

1. Introduction

- 1.1 Trusts or Charitable companies are used by 17 of Scotland's 32 Local Authorities to manage and deliver mostly sports and leisure facilities and services (source, Sports and Recreation Trust Association, SPORTA). Some, particularly Glasgow Culture and Sport, include a wider range of services.
- 1.2 This discussion paper seeks to examine the following issues.
- i) The legislative background underpinning the provision of Community Learning and Leisure (CLL) services
 - ii) Existing Scottish Trusts
 - iii) Options in the structure of a Trust
 - iv) Potential savings
 - v) Potential additional costs
 - vi) Additional considerations
 - vii) Suggested next steps for The Highland Council

2. Legislative Background Underpinning CLL Services

- 2.1 A summary of the legislative framework governing the provision of leisure, community learning, archive and library services is as follows.

- 2.2 Leisure - The Local Government etc (Scotland) Act 1994 charges local authorities with the duty to 'ensure that there is adequate provision of facilities for recreational, sporting, cultural and social activities'.
- 2.3 Community Learning – Inspected by HMIE, Community Learning and youth work are viewed nationally as being part of the same profession and they are governed by a variety of acts and Governmental Guidance, from the Education [Scotland] Act 1945 through to Scottish Executive Guidance in 2004.
- 2.4 Archive Services - Local authority Archive Services in Scotland operate under the provisions of Section 53 of the Local Government [Scotland] Act, 1994, which states: 'a local authority shall...make proper arrangements for the preservation and management of any records which have been:
- i) transferred to and vested in them by virtue of an order under Section 15 of this Act (this means records of predecessor authorities such as the pre-1975 County Councils)
 - ii) created or acquired by them in the exercise of any of their functions (this refers to records created by the present authority)
 - iii) otherwise placed in their custody (this refers to privately owned archives placed in the Council's care)
- 2.5 Public Libraries - The most recent major piece of legislation for libraries is the 1955 Public Libraries (Scotland) Act which legislates that local authorities must provide an adequate public library service.
- 2.6 Museums – Fall within the Public Libraries Consolidation Act of 1887.

3. Existing Scottish Trusts

- 3.1 At present 17 of Scotland's 29 Local Authorities have established a Trust to manage and deliver some or all of its sports, leisure, community and cultural facilities and services. The size and structure of each Trust varies across each Authority and ranges from Trusts that are comprised of a single leisure facility, such as Moray Leisure, to those that encompass the full range of cultural and leisure services, such as Culture and Sport Glasgow. A summary of the Trusts operating in Scotland are listed in Appendix 1.
- 3.2 Based on initial discussions with both existing Trusts and Councils operating Trusts, the following two reasons are cited as the primary rationale for moving towards the establishment of this arms length method of operation.
- i) Financial advantages – primarily through savings achieved in non domestic rates and VAT, in addition to increased opportunities to raise funds.
 - ii) Political drivers – A belief that trust status can bring improved service delivery – primarily through the increased capacity of the arms length organisation to focus in greater detail on further enhancing the co-ordination, range and quality of cultural and leisure services on offer.

3.3 During the same initial consultation process, the following issues were raised as key factors to be addressed if the establishment of a Trust is being considered. These factors were cited as essential in both ensuring that the Trust can and does deliver the Council's strategic goals and values and that the appropriate balance between two independent but complimentary partners is achieved from the outset.

- i) Developing clear and mutual understanding between the Council and the Trust of their respective roles, responsibilities and outputs.
- ii) Establishing well defined channels of communication between Council Members, officials and Trust operators.
- iii) Devising a detailed specification or agreement based on improved service delivery and not only on achieving financial savings.
- iv) Ensuring that the specification is aligned with and enables the Trust to deliver on the Council's strategic objectives, combining an appropriate balance of social objectives whilst operating within the legal framework of the Companies Act.
- v) Separating the central support services of the Council and the Trust.
- vi) Appointing a Board for the Trust that facilitates the appropriate balance of independence from and alignment with the Council.

4. Options for Structuring a Trust

4.1 In considering whether or not to establish a Trust, the following tiers of inclusion might be reviewed for the full range of sports, leisure, community and cultural facilities and services within the Authority. Each line below item iii) represents a potential addition to the scope from that point.

- i) Status Quo – continue management and delivery directly by ECS
- ii) Single facilities only
- iii) All stand alone leisure / sports facilities
- iv) Sports development services, active schools co-ordinators and events functions
- v) Management of dual purpose facilities
- vi) Community centres and town halls
- vii) Libraries, museums and galleries
- viii) Cultural development activities
- ix) Youth work and adult learning

Members may also wish to consider the option to establish separate Trusts for the management of leisure facilities and services (iii to vi above) and cultural facilities and services (vii and viii above).

4.2 An investigation into the funding and delivery of the Inverness events function has been ongoing for several months. The City Committee has agreed to fund the function from the Inverness Common Good Fund for 2009/10 and a review will take place in February 2010 to decide on future funding. Having reviewed several options, the City Committee has also expressed a clear preference for the management of the Inverness events function to be delivered through the establishment of a company.

At its meeting of 2nd November 2009, the City Committee agreed –

“3. that the establishment of an independent company to run events in Inverness was the Committee’s preferred option for future management arrangements for events in Inverness and that this information be supplied to the Education, Culture and Sport Committee for consideration in January 2010”.

It will be recommended that investigation of that preference becomes part of any actions arising from this report.

4.3 Initial feedback from some existing Trusts and their corresponding Council officials suggest that, **as a minimum**, a Trust should include the management of those facilities and services through which the Authority delivers all of its stand alone leisure facilities and out of hours provision in joint school/community facilities in order to begin to realise the potential financial benefits and service improvements of operating in this manner. In terms of the tiers listed above, this would equate to the incorporation of all stand alone sport and leisure facilities, sports development services, active school co-coordinators, management of joint school and community facilities and stand alone community facilities.

4.4 Many existing Trusts consulted are actively reviewing the option of broadening the scope of the Trust to incorporate cultural facilities and services and are undertaking their own review process in addition to monitoring the progress of Glasgow Culture and Sport.

5. Potential Savings

5.1 There are three potential ways in which the establishment of a Trust can achieve savings for the Council.

- i) Savings from non domestic rates.
- ii) Savings from VAT.
- iii) Potential opportunities to raise short term project income through sources less available to councils.

5.2 The primary opportunity for a Trust to deliver efficiencies for the Council is through savings on non-domestic rates on buildings, where an 80% rebate may be applied. A further 20% rebate is at the discretion of the Council, although half of this extra must be paid directly by the Council. Based on budget figures for the financial year 2009/10, the following savings could be achieved in respect of Highland Council facilities if an 80% rebate is applied.

- i) All CLL facilities – £576,280
- ii) Sport, leisure and community facilities only – £445,184
- iii) Cultural facilities - £131,096

Please note that the above figures require to be analysed in detail to exclude any premises on which non recurring rates relief can be achieved beyond 2009/10. In addition the rates bill for the new Highland Archive and Registration is not included within the 2009/10 figures shown above.

5.3 Leisure Trusts pay less VAT on income than Councils but pay more on some goods and services. An initial comparison into the actual trends at the two trust operations at Inverness Leisure and the Averon Leisure Centre, Alness for the three year period from 2006 to 2008 indicates the following savings.

- i) Inverness Leisure £282,648; (£94,216 per annum)
- ii) Averon Leisure £95,000; (£31,667 per annum)

5.4 The establishment of an arms length Trust would prompt a review of operating practices and service delivery within facilities for the purposes of generating efficiencies and identifying opportunities to increase income. A Trust with Charitable status may have access to additional, short term project funding opportunities that might not be open to Local Authorities, although this should be viewed as “opportunity funding” rather than an ongoing reliable source of revenue funding.

6. Potential Additional Costs

6.1 If a Trust was established there would be one off and some ongoing additional costs which would reduce the estimated savings above. One off costs would include those related to the set up of the Trust, while ongoing costs may be incurred in respect of operating factors such as the provision of central support services, office accommodation and staffing.

TUPE regulations would apply to staff transferring from ECS. The potential transfer of staff from other Services could also be considered in the areas of payroll, personnel, legal and financial management.

6.2 Depending on the scope of the Trust, there may be a requirement for additional management resources, including the post of a General Manager/Chief Executive, as the Education, Culture and Sport management structure would need to be split to ensure sufficient management levels for both those services transferred and those retained in house.

6.3 Feedback from existing Trusts strongly advocates the separation of central support services between the Trust and the Council. The rationale behind this position is centred on the premise that the separation benefits both the Trust and the Authority as each requires different services in respect of financial management, payroll, personnel, legal and IT support. Any move to establish a Trust will have to consider the financial implications for both the Council and the Trust and in some instances a phased separation has been the chosen route to maximise on the benefit and minimise any negative financial impact and operating disruption for each party.

7. Additional Considerations

7.1 Three further key issues should be considered at this stage.

- i) Relationship / engagement with existing Leisure Trusts in the Highlands
- ii) Future capital investment in sport, leisure, community and cultural facilities
- iii) Arrangements for maintenance of sport, leisure and cultural facilities

- 7.2 Four major Trusts exist at present in the Highlands: Inverness Leisure, Avero Leisure in Alness, the Nevis Centre in Fort William and Eden Court Theatre. If further analysis of the option to establish a Highland wide Leisure Trust is to be reviewed in more depth, it would be prudent to approach each Trust to establish its views on the potential to become part of a larger entity, depending on the scope decided for the organisation.
- 7.3 Equally a further, more detailed review of the option to form a Trust will necessitate consideration of how the Trust would interface with the Council's capital programme and, in particular, how any future potential investment in the Council's stock of sports, leisure, community and cultural facilities would be planned and managed. Evidence from the relationship with Inverness Leisure suggests that there would be early pressure from outsourced services for an agreed capital programme for updates and replacements. It is difficult at this stage to determine the level of that sum but Inverness Leisure currently has an allocation of £2m for the next five years. This compares with £5m for all council managed facilities.
- 7.4 Similar consideration would be required in respect of the arrangements that might be established between the Council and a Trust to ensure the ongoing and appropriate maintenance of the Council's sports, leisure, community and cultural facilities.

8. Suggested Next Steps for The Highland Council

- 8.1 Having considered this report, it is suggested that Members consider the following questions.
- i) Do Members wish to proceed with further investigation of the management and delivery of some or all of its sports, leisure, community and cultural services by a Trust?
 - ii) Do Members wish any further investigation to focus on one structural option for a Trust or to review a range of options?
- 8.2 If Members do wish to initiate a more detailed analysis of the option to establish a Trust, it is proposed that the review includes the following.
- i) Collate further more detailed feedback from Councils and existing Trusts in Scotland.
 - ii) Present an options appraisal for the potential structures of a Trust or Trusts for the Highland Council area.
 - iii) Project the financial forecasts for each option.
 - iv) Propose a management structure with associated costs for each option.
 - v) Propose the arrangements for the provision of central support services for each option.
 - vi) Develop outline proposals for engagement between a Trust and the Council's capital programme.
 - vii) Develop outline proposals covering the arrangements for facility maintenance between the Council and a Trust.
 - viii) Engage with the existing four major Trusts within The Highland Council area to determine their interest in forming a Highland wide Trust.

8.3 If Members wish to move to initiate a more detailed analysis, it is proposed that a lead officer be nominated from within existing resources to undertake this process in house, with additional capacity via advisors as required. It is recommended that any advisors used would have a track record of assisting other Councils in the setting up of Trusts for this purpose.

9. Recommendation - It is recommended that Members

9.1 Comment on the issues raised in this report and specifically, give their views on the suggested next steps proposed in section 8.

9.2 Agree that the Inverness City Committee's preferred option for future management arrangements for events in Inverness be operated through the establishment of a company be investigated as part of the actions arising from this report.

Signature:

Designation: Director of Education, Culture and Sport

Author: Ian Murray

Date: 7 January 2010

Ref:

Background Papers

Scottish Trusts
HIGHLAND - Averon Leisure and Inverness Leisure (Caledonian Community Leisure)
STIRLING - Active Stirling Limited
BORDERS - Borders Sport and Leisure Trust
EDINBURGH - Edinburgh Leisure
FIFE - Fife Sports and Leisure Trust Ltd
INVERCLYDE - Inverclyde Leisure
EAST AYRSHIRE - Kilmarnock Leisure Centre Trust
GLASGOW - Culture and Sport Glasgow
MORAY - Moray Leisure Ltd
NORTH AYRSHIRE - North Ayrshire Leisure Ltd (Trading as KA Leisure)
PERTH & KINROSS - Perth and Kinross Leisure
RENFREWSHIRE - Renfrewshire Leisure Limited
SHETLAND - Shetland Recreational Trust
SOUTH LANARKSHIRE - South Lanarkshire Leisure Ltd
ORKNEY - The Pickaquoy Centre Trust
MONKLANDS - Time Capsule Monklands Trust Ltd
WEST LOTHIAN - West Lothian Leisure Limited