
CULTURAL SERVICES REVIEW – OPTIONS APPRAISAL

Report by the Director of Education and Lifelong Learning

SCOTTISH BORDERS COUNCIL

27 FEBRUARY 2014

1 PURPOSE AND SUMMARY

- 1.1 **This report informs Members on the optimal organisational setup and governance model for Cultural Services, recommends the transfer, in principle, of Cultural Services to a Trust and gives details of the proposed next steps towards the establishment of a new Culture Trust.**
- 1.2 The Services under Review have a combined budget £4.8m and staffing complement of c130fte (209 people). These services are delivered from 58 facilities throughout the Scottish Borders.
- 1.3 The savings target set for the Cultural Services Review is £406k, with £276k expected to be achieved by this workstream. The delivery of this saving is scheduled to begin in financial year 2015/16.
- 1.4 This report is centred on the core task of the Review – to identify the optimal organisational setup and governance model for Cultural Services, determined by an options appraisal and validated by an external, independent assessment.
- 1.5 In the options appraisal, the Trust option outscored the Retention and Restructure option because a Trust can:
 - a) Achieve Savings Whilst Sustaining Services
By transferring services to a Trust it will be possible to secure the entire savings target for the Review from rates remission. If the services are Retained, the savings will have to be found from service withdrawal and/or reduction, facility closure and streamlined management and backroom support.
 - b) Be More Demand Led and Enterprising
A Trust is set up to be more demand led and more responsive to the cultural marketplace. The governance structure of a Trust should result in greater operational flexibility and quicker decision-making with the Board bringing new ideas, experience and skills to the Trust's work. With the long-term trend in local government funding being towards continuous reduction in expenditure, making the most of opportunities from commercial activity is essential to preserving the quality and reach of services.

- 1.6 There are essential safeguards in the Trust option. Although a Trust will have a more commercial focus it is also a charity. It will have to define its social, cultural and educational objectives and demonstrate how it will deliver them.
- 1.7 Consultants, Noble Openshaw, were commissioned to provide an independent evaluation of the options appraisal. Their investigation has centred on the scorecard. They have concluded:
- “We believe that the Border Council’s team have conducted a robust appraisal process which ... is likely to offer a solid and reliable direction of travel.”
- 1.8 At this time, all Cultural Services (with the exception of the integrated Library/Contact Centres) are proposed to transfer to a new Trust, though the scope of the proposed Trust will remain under review during the next phase of work. The savings that will be secured from the Trust option relate to National Non-Domestic Rates (NNDR) relief. If all the services within current scope transfer to a Trust, the savings, calculated at the mandatory 80% remission of rates, will be £317k. If the Council elects to apply 95% rates remission as it has done with Borders Sports and Leisure Trust, we expect the rates remission will be £377k, which will allow for a Trust to incur some new and additional revenue costs that are outside the current Council budget for Cultural Services; these costs are currently estimated at £60k per annum and will be funded through identified rates savings. There will be a one off cost of c. £70k to establish a Trust.

2 RECOMMENDATION

2.1 I recommend that Council:-

- (a) Notes the options appraisal and its results.**
- (b) Approves in principle the transfer of Cultural Services to a Trust.**
- (c) Agrees that a further report on progress with the transfer will be brought back to Council in August 2014, with a view to the Trust being launched by October 2015.**

3 BACKGROUND

3.1 A Review of Cultural Services is a workstream in ELL ICS Transformation Programme. The blueprint for the Review is:

1. Identifying the optimal organisational setup and governance model for Cultural Services including the option to form a Culture Trust.
2. A Modernisation Review of Library Services.

The two workpackages overlap and are interdependent but this report is centred on the first element – the best future organisational setup and governance model for Cultural Services. In January 2014, Scottish Borders Council approved a restructure of the mobile and outreach Library Services round a reduced operating fleet of three vehicles. This restructure is estimated to deliver savings of c£130k, leaving £276k to be found from the first workpackage.

3.2 The scale of the Culture Services Review is significant – c.130fte, 209 people and a £4.8m revenue budget.

Service	FTE	No of People	Projected 14/15 rev budget £000
Libraries and Information Services	39	54	1,460
Secondary School Library Service	7	10	235
Museums and Galleries Service	30	50	1,008
Archives - Heritage Hub	5	10	228
Arts Development	10	15	274
Heart of Hawick (Tower Mill)	6	8	310
Public Halls	13	35	476
Community Centres	11	15	618
Admin, Clerical and Central	11	12	298
Community Services Management Team Saving	0	0	(60)
Total	132	209	4,847

3.3 The Services are delivered from a wide range of facilities including Branch, Mobile and School Libraries, integrated Library/Contact Centres, Local Museums (several housing public galleries), Harestanes Countryside Visitor Centre, the Heritage Hub (Scottish Borders' Archive and Local History Centre), Tower Mill, Public Halls and Community Centres. The properties under consideration in the Review are listed in Appendix 1.

3.4 The savings target for Cultural Services Review has been set as £406k. This sum represents around 8% of the current Cultural Services budget. Together with the budget savings made in 2012-13, the Cultural Services budget will have been reduced by c. £900k by the end of 2015/16.

4 OPTIONS APPRAISAL – BACKGROUND

4.1 The ELL ICS Transformation Programme Board was asked to consider three core options for Cultural Services.

1. do nothing
2. managed decline
3. service redesign

Because of the savings targets set for Cultural Services and the transformation already taking place within these Services, the Board selected service redesign and shortlisted two redesign options: Transfer or Retention and Restructure.

4.2 THE TWO OPTIONS SUMMARISED

Option 1- Transfer to a New Organisation

Cultural Services transfer from the Council to be delivered from a new organisation within the third sector. Transferring Cultural Services to a Trust has been the consistent recommendation of consultants (most recently EKOS) commissioned to appraise the future of these Services.

The main benefits identified from this scenario are:

- i. the capacity to safeguard frontline services by securing targeted savings from rates remission.
- ii. the capacity of a well-designed new organisation to deliver service improvements across a wide-ranging agenda.

The main risks identified are:

- i. financial – the direct costs of establishing the new organisation and the risk of unforeseen costs when services are decoupled from the Council.
- ii. alienation - the risks of vesting significant operational and strategic control in an organisation that is outside the Council.
- iii. that, in the event of failure, the Council will retain residual responsibility for the provision of these services.

Nine Local Authorities in Scotland now have their Cultural Services in a Trust arrangement, with further Councils considering transfer.

4.3 Option 2 – Retention & Restructure within Scottish Borders Council

Cultural Services remain within the Council and are placed where they will make the best operational and strategic contribution to the Council's priorities. The investigation of new alignments – the integration and collocation of services – plays a key role in this scenario.

The main benefits identified from this scenario are:

- i. the opportunity to consider new service groupings that, working together, can more effectively focus on and deliver key Council priorities.
- ii. the low cost of implementation.

The main risks identified are:

- i. the impact on frontline services: the savings target will have to be met by reducing the scope and reach of services with the risk that withdrawal from some facilities becomes unavoidable.

5 OPTIONS APPRAISAL – RESULTS

- 5.1 A scorecard was produced for the options appraisal. It was designed to assess and score each option against five key tests.
 1. Leadership and Ethos
 2. Relevant Services
 3. Resilient Services
 4. Responsive Services
 5. Enterprising Services
- 5.2 Community Services' Managers completed the scorecard. The Trust option outscored the Retention and Restructure option in each of the five key tests of the scorecard and by a cumulative score of 322 to 240. The detailed scorecard with the reasons for each score and the evidence produced to validate that reasoning is provided as Appendix 2.
- 5.3 In summary, the Trust option outscored the Retention and Restructure options because a Trust can:
 - a) Achieve Savings Whilst Sustaining Services
By transferring services to a Trust it will be possible to secure the entire savings target from rates remission. If the services are Retained and Restructured, the savings will have to be found from service withdrawal and/or reduction, facility closure and streamlined management and backroom support. Illustrations of what this might mean for the Services are presented in Appendix 3.
 - b) Be More Demand Led and Enterprising
To stay viable, Cultural Services must bring people to the spaces, services, experiences and products they offer. Change and innovation are the key dynamics of the cultural sector with, for example, new digital media and content constantly challenging and changing the way people consume culture. Consequently Cultural Services have rapidly to adapt to change – to develop and modernise its offering to the public. A Trust is set up to be more demand and market led – more sensitive and responsive to the 'culture' marketplace.
- 5.4 During the options appraisal process the project managers sought out essential safeguards in the Trust option. Although a Trust will have a more commercial focus it is also a charity and must recycle any profits back into its mainline charitable activity. In order to secure charitable status a Trust will have to define its social, cultural and educational objectives and demonstrate to OSCR (Office of the Scottish Charity Regulator) how it will deliver them.
- 5.5 Consultants Noble Openshaw were commissioned to provide an independent evaluation of the options appraisal. Their work has centred on the scorecard. They have concluded that the scorecard is, "substantial and very well evidenced." Overall, they have endorsed the, "thoroughness of the work done so far and the effort which has gone into communicating the issues and evidence to staff."

- 5.6 The results of the scorecard have been presented to all Community Services Managers. Libraries, given their unique position, with five branch libraries providing shared services and continuing uncertainty about whether the Service should come within the scope of a Trust, undertook an independent scoring of the two options, using the project scorecard and also favoured the Trust option. The integrated Library Contact Centres are the key face to face points for Council services in those five towns. There is an expectation that the range of services will grow in these Centres as well as the other six Contact Centres. There is also an intention to start integrating Customer and Neighbourhood Services. Therefore, taking into account future plans, the restrictions imposed by data protection and systems management in the Contact Centre functions of the integrated sites, coupled with the additional costs implications round disaggregating system arrangements and savings already made, there is no strong business case to transfer the integrated sites to the trust. However, the provision and development of library services from the integrated sites will continue to be the responsibility of library managers, employed by the Trust.
- 5.7 Although the Secondary School Library Service is included in the overall Review of Cultural Services, it currently sits under Schools management. At present it is out of scope for transfer to Trust, but will remain under consideration in the next stage of work. This will also consider options for closer working between the public and schools library services.
- 5.8 The Trust option therefore currently includes all Cultural Services listed in 3.2 above, with the exception of the five integrated Library/Contact Centres and the Secondary Schools Library Service.
- 5.9 The scorecard results have been reported to the ELL/ICS Transformation Board and the Corporate Management Team, to the Administration Budget Working Group, the Administration and was the subject of an Elected Member briefing on 23 January 2014.

6 NEXT STEPS

- 6.1 If the recommendations of this report are approved it will set a direction of travel towards a Trust. The project team will return to Council in August with a progress report that establishes the framework for setting up a Trust. This report will include:
- confirmation of the scope of Trust – a final recommendation on services and properties to transfer.
 - confirmation of the governance structure of the new Trust (see Appendix 4).
 - progress towards producing the suite of documentation required to enable the transfer of services (see Appendix 5) and set the framework in which the Trust can operate, along with essential safeguards to regulate the relationship between the Council and the Trust.
 - a draft performance management framework embedding the work of a Trust in the Council's priorities and the Single Outcome Agreement and setting out how the contract will be monitored within the Council.
 - a costed plan showing the financial input to Cultural Services by Council-wide support services; and which services may be bought back from the Council or delivered directly by the Trust.
 - confirmation of the one-off costs to transfer and the new, recurring revenue costs faced by the Trust and that these remain affordable.
 - transition and TUPE transfer plans and a proposed transfer date.

- a risk update on the Trust option.
- confirmation that the expected benefits from transfer to a Trust can be realised.
- plans to recruit a Trust Board.
- any outstanding issues and concerns.

6.2 Although this is a long list of complex tasks, the project team has an extensive library of documentation and a contact network from previous Culture Trust transfers in Scotland to assist its work. There will, however, be a need, during this forthcoming stage and towards the Trust startup, for dedicated project management support.

6.3 If at any time during the interval between the February report to Council and the following report in August seeking approval to set up the new Trust, any new evidence or events compromise the business case for transfer, these changes will be reported by the project team to Council and alternative proposals for Cultural Services will be developed. If the project to implement a Trust transfer is the Council's chosen course, it is expected that the Trust would be fully operational by October 2015 at the latest.

7 IMPLICATIONS OF APPROVAL TO PROCEED WITH TRUST TRANSFER

7.1 Financial

1. Trust Option Savings

The main saving to be secured from the Trust option is National Non-Domestic Rates (NNDR) relief. If all the services within scope transfer to a Trust, the savings, calculated at the mandatory 80% remission of rates, will be £317k. If the Council elects to apply 95% rates remission as it has done with Borders Sports and Leisure Trust, the remission will be £377k. See the table below:

Service	80%	95%
Libraries and Information Services	47,709	56,656
Museums and Galleries Service	59,249	70,359
Archives - Heritage Hub	30,759	36,527
Heart of Hawick (Tower Mill)	25,095	29,800
Public Halls	101,764	120,846
Community Centres	52,890	62,805
TOTAL	317,466	376,993

2. Trust Option Costs - Implementation

The costs that the Council will incur implementing the Trust option are mainly in commissioning expert legal and financial advice both for itself and for the incoming Trust Board to carry out due diligence on the leasing and contract framework prepared by the Council. The expenditure estimates reported for recent cultural and leisure service transfers in Scotland have been in the range of c. £50-70k. This is a one off cost to be funded in the main from an earmarked balance within the Central Transformation budget.

Trust Option Costs – Additional Recurring Revenue Costs

A Trust will incur some new and additional revenue costs that are outside the current Council budget for Cultural Services. For example, the Trust will be required to buy in an auditor and provide its own expert legal advice. These new and additional costs are currently estimated at £60k, based on the experience of other Councils. Within the expected 95% rates remission scenario set out above, the new and additional costs can be met with the overall savings target still secured.

3. Support Services

If Cultural Services are transferred into a Trust, the Trust will need a robust support services budget that covers everything from core activities such as HR, financial, ICT and property management to cleaning, grounds maintenance and refuse collection. The current estimate of support service spend committed to Cultural Services in the Council is around £500k. How much of this support will be provided to a Trust and in what way, will be considered in further detail during the next stage of the project.

4. VAT

Price Waterhouse Cooper (PwC) were commissioned to calculate the VAT position of a Trust and now estimate this will result in an additional cost of £4k. PwC has emphasised that, to optimise the VAT position for a Trust, care will be required in the construction of the framework of contracts between the Council and a Trust and the leasing of facilities, collections and equipment. The extra VAT cost would be funded through the identified rates savings.

7.2 **Risk and Mitigations**

A full risk management plan has been prepared for this stage of the project. The main risks at this point are:

1. Property – Repairs and Maintenance, and Capital Investment

There is a significant repairs and maintenance deficit in Cultural Services' facilities. There is a likelihood that the Council will not have the capital resources to address the repairs and maintenance backlog or meet future investment need. This risk has been mitigated by consulting with other Cultural Services Trusts in Scotland and learning how they have overcome the same challenges; for example, through lease agreements which recognise the underlying repairs and maintenance issues and continuing access to the Council's capital planning process.

2. Property – Common Good

Of the 58 facilities under consideration for transfer to a Trust seven are known to be in Common Good (these facilities are listed on page 1 of Appendix 1). There is a risk that Common Good issues obstruct the transfer of Common Good properties into Trust management and collections, records or archives also become disputed as Common Good, resulting in significant, untenable delays and substantial legal costs whilst the Common Good position is resolved. This risk has been mitigated by the Council's previous actions to produce a management framework for Common Good properties.

3. Financial - NNDR

There is a risk that the Scottish Government may reduce or withdraw rates remission for the Trusts created by Councils to run sports, leisure and cultural services. This risk is low and is being mitigated by taking forward the Trust option in two stages – seeking approval to work towards a Trust now and only confirming the transition to Trust when everything is in place.

4. ICT

There is a risk that a Trust will have to be disconnected from the Council's ICT infrastructure and will be unable to access the networks it needs to sustain services to the public; for example, the People's Network and the VUBIS management system in libraries. This risk has been

mitigated by the early identification of potential ICT issues and the work under way to identify solutions for these issues: particularly contact with other local authorities to learn how they have resolved ICT issues and gone on to establish new Culture Trusts.

5. Capacity

The next stage, working towards the implementation of a Trust, is complex and challenging. It will require significant project and change management. There is a risk that, without this stage being adequately resourced, the project will falter and lose momentum. This risk has been mitigated by the recent allocation of additional project management resource to the project.

7.3 **Equalities**

A full equalities impact assessment has been undertaken and has not identified any significant equalities issues and none that cannot be addressed through a robust SLA between the Council and Trust.

7.4 **Acting Sustainably**

The purpose of this investigation is to produce services that can be made resilient and sustainable.

7.5 **Carbon Management**

Cultural Services manage a significant proportion of the Council's operational facilities (in 2008, Cultural Services managed 10% of the total Council estate; 10% of the value, 8.6% of the number of assets and 10.8% of the gross floor area). Consideration will be given to how the carbon footprint of the Council might be reduced by collocation of services in a Trust.

7.6 **Rural Proofing**

Sustaining the rural reach of services has been a key consideration in the options appraisal. A rural proofing assessment has been undertaken and it suggests that the rural reach of services is better protected by the Trust option. The internal restructure option is likely to require a significant proportion of the savings to come from front line services and would include the closure of some sites.

7.7 **Changes to the Scheme of Administration or Scheme of Delegation**

A scheme of administration and delegation will be produced for the Trust. The Council's scheme of administration and delegation may require amendment when a Trust is operational.

8 CONSULTATION

- 8.1 The Chief Financial Officer, the Head of Corporate Governance, the Head of Audit and Risk, the HR Manager, the Clerk to the Council, the Head of Strategic Policy, Service Director Neighbourhood Services and Head of Property and Facilities Management have been consulted on the contents of this report and their comments incorporated.

- 8.2 The results of the options appraisal have been presented to the ELL/ICS Transformation Board, the Political Reference Group for that Board, the Council's Corporate Management Team, the Administration Budget Working Group, the Administration and at a briefing for Elected Members on 23 January 2014. The results of the options appraisal have also been sent to the Trade Unions.
- 8.3 The National Agencies, including Museums Galleries Scotland, the National Archives of Scotland and the Scottish Libraries and Information Council, have been informed of the results of the option appraisal and the possibility that the Service will transfer to a Trust.
- 8.4 If the Council instructs progress to the next steps of implementing a Trust, the transfer proposal will be publicised in the next edition of SBScene, and the public will be invited hear about and respond to the Trust proposition at the Area Forums.

Approved by

Director of Education & Lifelong Learning

Signature – GLENN RODGER

Author(s)

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Background Papers: [insert list of background papers used in compiling report]

Previous Minute Reference:

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Description of Appendices

1	PROPERTY PORTFOLIO	<p>The current Cultural Services Property register listing:</p> <ul style="list-style-type: none"> ▪ properties that would be leased to a Trust ▪ properties that would remain with the Council or transfer back to original owners (e.g. Newlands Hall) ▪ properties currently in scope for the Community Asset Transfer programme i.e. that will be transfer into community management (e.g. Jedburgh Town Hall) ▪ properties from which a Trust will deliver services under an SLA but which will remain with a third party (e.g. Peebles Library and Museum) ▪ properties currently know to be in Common Good
2	SCORECARD AND PRECES	A summary of the scorecard results – the key findings – and the full scorecard itself.
3	RETAIN AND RESTRUCTURE OPTION	Illustrations of the kind and depth of service rationalisation required to achieve a £406k budget reduction from this option
4	GOVERNANCE STRUCTURE	From the Burness report commissioned by the Council in 2009: a visual representation of how a Trust would be setup and governed
5	CONTRACT FRAMEWORK	From Burness and others: the contracts that would be drawn up to govern the relationship between the Council and the Trust, what their specific purpose is and how they relate to each other.
6	WORKFLOW DIAGRAM – to Trust	The key stages and milestones in setting up a Trust: a visual representation.