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**CULTURAL SERVICES REVIEW – OPTIONS APPRAISAL**

**Report by the Director of Education and Lifelong Learning**

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**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.

<b>Service</b>	<b>FTE</b>	<b>No of People</b>	<b>Projected 14/15 rev budget £000</b>
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)
<b>Total</b>	<b>132</b>	<b>209</b>	<b>4,847</b>

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
<b>TOTAL</b>	<b>317,466</b>	<b>376,993</b>

#### 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)**

Name	Designation and Contact Number
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**Background Papers:** [insert list of background papers used in compiling report]

**Previous Minute Reference:**

**Note** – You can get this document on tape, in large print and various other formats by contacting us at the address below. In addition, contact the address below for information on language translations, additional copies, or to arrange for an Officer to meet with you to explain any areas of the publication that you would like clarified. Contact the Cultural Services Manager at Council Headquarters on 01835 824000.

## Description of Appendices

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

## APPENDIX 1: property portfolio

This is a list of the facilities – Libraries, Museums, Archives, Public Halls, Community Centres and Heart of Hawick – from which Cultural Services are delivered. They are the first line of properties under consideration for leasing to a Culture Trust. The assessment of which properties can be leased to a Trust and which are out of scope has provided the basis of an estimate of the rates remission saving achievable by a Trust. Further work will be carried out between January and July to confirm this assessment. Other properties, which are not actively managed by Cultural Services but are assigned to these Services on the Council's Property register, will be assessed jointly by Property and Cultural Services in the next phase of work.

	<b>property leased to Trust</b>
	<b>out of scope</b> for lease to Trust: remains with Council or transfers back to original owners
	<b>out of scope</b> for lease to Trust: candidate for Community Asset Transfer
	<b>out of scope</b> for lease to Trust: but Trust will deliver services from building under SLA
	property is <b>common good</b> or in trust

**Note:** for all those properties designated out of scope no assumption of rates remission is made

### SUMMARY RATES REMISSION

TYPE	80%	95%
LIBRARIES	47,709	56,656
MUSEUMS	59,249	70,359
ARCHIVES	30,759	36,527
HEART of HAWICK	25,095	29,800
PUBLIC HALLS	101,764	120,846
COMMUNITY CENTRES	52,890	62,805
	<b>317,466</b>	<b>376,993</b>

### COMMON GOOD PROPERTIES IN SCOPE FOR TRUST

1. **SELKIRK** Sir Walter Scott's Courtroom
2. **JEDBURGH** Mary Queen of Scot's House
3. **JEDBURGH** Castle Jail
4. **GALASHIELS** Volunteer Hall
5. **SELKIRK** Victoria Halls
6. **INNERLEITHEN** Memorial Hall
7. **KELSO** Tait Hall

## LIBRARIES

<b>COLDSTREAM</b>	Gateway Centre, 73, High Street, Coldstream, TD12 4AE	LIBRARY/CONTACT CENTRE
<b>DUNS</b>	49, Newtown Street, Duns, TD11 3AU	LIBRARY/CONTACT CENTRE
<b>EARLSTON</b>	Earlston HS	SCHOOL/BRANCH LIBRARY
<b>EYEMOUTH</b>	Haincher, Manse Road, Eyemouth, TD14 5JE	BRANCH LIBRARY
<b>GALASHIELS</b>	3, Lawyers Brae, Galashiels, TD1 3JQ	HUB LIBRARY
<b>HAWICK</b>	North Bridge Street, Hawick, TD9 9QT	HUB LIBRARY
<b>HAWICK 2</b>	North Bridge Street, Hawick, TD9 9QT	ROOMS/OFFICES
<b>INNERLEITHEN</b>	Buccleuch Street, Innerleithen, EH44 6LA	LIBRARY/CONTACT CENTRE
<b>JEDBURGH</b>	15, Castlegate, Jedburgh, TD8 6AS	LIBRARY/CONTACT CENTRE
<b>KELSO</b>	Bowmont Street, Kelso, TD5 7JH	LIBRARY/CONTACT CENTRE
<b>MELROSE</b>	18, Market Square, Melrose, TD6 9PN	BRANCH LIBRARY
<b>PEEBLES <sup>(2)</sup></b>	Chambers institution	HUB LIBRARY
<b>PEEBLES</b>	Eshiels Peebles	GARAGE (for Mobile Library)
<b>SELKIRK <sup>(1)</sup></b>	Ettrick Terrace, Selkirk, TD7 4LE	BRANCH LIBRARY
<b>SELKIRK HQ</b>	St Marys Mill, Level Crossing Road, Selkirk, TD7 5EQ	OFFICES

## Notes

1. Selkirk Library not Common Good but given to town in Trust for use as a library.
2. Chambers Institution already in Trust management.

## MUSEUMS

<b>ANCRUM</b>	Ground Floor, <b>Harestanes</b> , Ancrum, Jedburgh, TD8 6UQ	HARESTANES VISITOR CENTRE
<b>COLDSTREAM</b>	12, Market Square, Coldstream, TD12 4BD	MUSEUM
<b>DUNS</b>	Jim Clark Room, 44, Newtown Street, Duns, TD11 3AU	MUSEUM
<b>GALASHIELS</b>	Old Gala House	MUSEUM
<b>HAWICK</b>	Hawick Museum, Wilton Lodge Park, Hawick	MUSEUM
<b>HAWICK <sup>(1)</sup></b>	Borders Textile Tower House, Drumlanrig's Tower, 1, Tower Knowe, Hawick, TD9 9EN	MUSEUM
<b>INNERLEITHEN</b>	St Ronans Wells, St Ronans Terrace, Innerleithen, EH44 6RB	MUSEUM
<b>JEDBURGH</b>	Queen Marys House, Queen Street, Jedburgh	VISITOR CENTRE

<b>JEDBURGH</b>	Castle Jail, Castlegate, Jedburgh	MUSEUM
<b>PEEBLES</b> <sup>(3)</sup>	Tweeddale Museum, Chambers Institution	MUSEUM
<b>SELKIRK</b>	Halliwells House Museum, Market Place, Selkirk, TD7 4BL	MUSEUM
<b>SELKIRK</b>	Sir Walter Scott's Courtroom 27, Market Place, Selkirk, TD7 4BL	MUSEUM
<b>SELKIRK</b>	Municipal Buildings, High Street, Selkirk, TD7 4J	OFFICES

### **Notes**

1. Textile Towerhouse – part of Heart of Hawick campus.
2. Chambers Institution already in Trust management.

### **ARCHIVES**

<b>HAWICK</b>	Heart Of Hawick, <b>Heritage Hub</b> , Kirkstile, Hawick, TD9 0AE	LOCAL HISTORY & ARCHIVE CENTRE
<b>HAWICK</b> <sup>(1)</sup>	Heritage Hub, Tower Mill, Kirkstile, Hawick, TD9 0AE	CAR PARK

### **Notes**

1. Heart of Hawick 'Civic Space'.

### **HEART OF HAWICK**

<b>HAWICK</b>	Tower Mill, Kirkstile, Hawick, TD9 0AE	CINEMA/THEATRE
<b>HAWICK</b>	Unit 302, Tower Mill, Kirkstile, Hawick, TD9 0AE	BUSINESS UNIT
<b>HAWICK</b>	Unit 101, Tower Mill, Kirkstile, Hawick, TD9 0AE	CAFÉ/ BUSINESS UNIT
<b>HAWICK</b>	Unit 205, Tower Mill, Kirkstile, Hawick, TD9 0AE	BUSINESS UNIT
<b>HAWICK</b>	Unit 206, Tower Mill, Kirkstile, Hawick, TD9 0AE	BUSINESS UNIT
<b>HAWICK</b>	Unit 306, Tower Mill, Kirkstile, Hawick, TD9 0AE	BUSINESS UNIT
<b>HAWICK</b>	Unit 303, Tower Mill, Kirkstile, Hawick, TD9 0AE	BUSINESS UNIT
<b>HAWICK</b>	Unit 305, Tower Mill, Kirkstile, Hawick, TD9 0AE	BUSINESS UNIT

### **PUBLIC HALLS**

<b>COLDSTREAM</b>	73, High Street, Coldstream, TD12 4AE	RODGER HALL & TOWN HALL
<b>DUNS</b> <sup>(1)</sup>	9, Langtongate, Duns, TD11 3AF	DRILL HALL
<b>GALASHIELS</b> <sup>(6)</sup>	Old Gala House, Scott Crescent, Galashiels, TD1 3JS	COMMUNITY CENTRE

<b>GALASHIELS</b>	Volunteer Hall, St John Street, Galashiels, TD1 3J	VOLUNTEER HALL
<b>SELKIRK</b>	Office, Ettrick Terrace, Selkirk, TD7 4LE	OLD GAOL
<b>HAWICK</b>	High Street, Hawick	TOWN HALL
<b>HAWICK</b>	High Street, Hawick	OFFICES
<b>INNERLEITHEN</b> <sup>(3)</sup>	Memorial Hall, Leithen Road, Innerleithen, EH44 6H	MEMORIAL HALL
<b>JEDBURGH</b> <sup>(5)</sup>	Abbey Place, Jedburgh	TOWN HALL
<b>KELSO</b>	Tait Hall, Edenside Road, Kelso	TAIT HALL
<b>KELSO</b>	Bowmont Hall, East Bowmont Street, Kelso	BOWMONT HALL
<b>LAUDER</b>	The Avenue, Lauder, TD2 6TD	PUBLIC HALL
<b>MELROSE</b> <sup>(2)</sup>	10, Market Square, Melrose, TD6 9PN	ORMISTON INSTITUTE
<b>MELROSE</b>	Hall, Market Square, Melrose, TD6 9PG	CORN EXCHANGE
<b>NEWLANDS</b>	Memorial Hall, Newlands, EH46 7B	MEMORIAL HALL
<b>PEEBLES</b> <sup>(4)</sup>	High Street, Peebles, EH45 8AG	BURGH HALL
<b>STOW</b>	1, Earliston Road, Stow, Galashiels, TD1 2RL	TOWN HALL
<b>SELKIRK</b>	Victoria Hall, 1, Scotts Place, Selkirk, TD7 4LN	HALLS
<b>WEST LINTON</b>	Graham Institute, Lower Green, West Linton, EH46 7EW	GRAHAM INSTITUTE

## **Notes**

1. Active local interest in community asset transfer.
2. Ormiston Institute Trust supports the local management of the building
3. Active local interest in community asset transfer.
4. Chambers Institution already in Trust management.
5. Active local interest in community asset transfer.
6. Also Museum.

## **COMMUNITY CENTRES**

<b>CRAIKHOPE</b>	Outdoor Centre, Craikhope, Robertson, Hawick, TD9 7PS	OUTDOOR CENTRE
<b>PEEBLES</b>	The Gytes, Peebles, EH45 8AU	DRILL HALL
<b>CHIRNSIDE</b> <sup>(3)</sup>	Warehouse, Chirnside, Duns, TD11 3R	COMMUNITY CENTRE
<b>DUNS</b>	Southfield Lodge, Station Road, Duns, TD11 3EL	OFFICES
<b>DUNS</b>	<b>Southfield</b> , Station Road, Duns, TD11 3EL	COMMUNITY CENTRE

<b>EARLSTON</b> <sup>(4)</sup>	High Street, Earlston, TD4 6HF	COMMUNITY CENTRE
<b>EYEMOUTH</b>	Albert Road, Eyemouth, TD14 5DE	COMMUNITY CENTRE
<b>FOGO</b> <sup>(5)</sup>	Fogo, Duns, TD11 3RA	COMMUNITY CENTRE
<b>GALASHIELS</b>	<b>Langlee</b>	COMMUNITY CENTRE
<b>GALASHIELS</b> <sup>(6)</sup>	<b>Focus Centre</b>	COMMUNITY CENTRE
<b>HAWICK</b> <sup>(7)</sup>	Havelock Street, Hawick, TD9 7BB	YOUTH CENTRE
<b>KELSO</b>	<b>Abbey Row</b> , Kelso, TD5 7BJ	COMMUNITY CENTRE
<b>KELSO</b> <sup>(1)</sup>	Abbey Row, Kelso, TD5 7BJ	YOUTH FACILITY
<b>KELSO</b> <sup>(2)</sup>	Abbey Row, Kelso, TD5 7BJ	WORKSHOP
<b>NEWTOWN</b>	Sprouston Road, Newtown St Boswells, Melrose, TD6 0RZ	COMMUNITY WING
<b>NEWCASTLETON</b>	Newcastleton No 8 Club, Montague Street, Newcastleton, TD9 0RD	YOUTH CENTRE
<b>SELKIRK</b>	<b>Argus Centre</b> Store, Goslawdales, Selkirk, TD7 4EP	COMMUNITY CENTRE
<b>TWEEDBANK</b>	Tweedbank, Galashiels, TD1 3RT	COMMUNITY CENTRE
<b>COLDSTREAM</b>	Coldstream PS Community Wing	All Community Wings remain with Council
<b>SELKIRK</b>	Philiphaugh Community Wing	
<b>INNERLEITHEN</b>	St Ronan's PS Community Wing	
<b>HAWICK</b>	Burnfoot PS Community Wing	

## Notes

1. Venue for The Rez youth club: remains with Council
2. Workshop and store for Outdoor Education Services: remains with Council
3. Active local interest in community asset transfer.
4. No longer in use as a Community Centre: remains with Council.
5. No longer in use as a Community Centre: remains with Council.
6. Shared with Ability Centre: active local interest in community asset transfer
7. Active local interest in community asset transfer.





**CULTURAL SERVICES – OPERATIONAL FACILITIES**

# APPENDIX 2 options appraisal and summary

## EXECUTIVE SUMMARY: OPTIONS APPRAISAL

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There are two headline reasons for the Trust option outscoring the Retained option.

### 1. ACHIEVING SAVINGS WHILST SUSTAINING SERVICES

The savings target set for Cultural Services within the Department's Transformation programme is demanding – £406k. This sum represents around an 8% reduction of the current Cultural Services budget. Together with the budget savings made in 2012-13, the Cultural Services budget will have been reduced by over £900m by the end of 2015/16. Of that £406k target, £276k is expected to be achieved by this workstream – an options appraisal to determine whether Cultural Services should be Retained and Restructured in the Council or Transferred to a Culture Trust. The delivery of this saving is scheduled to begin in financial year 2015/16. By transferring services to a Trust it will be possible to secure the entire £276k savings target 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. The Retained option risks setting off a destructive cycle with deteriorating services struggling to adapt to changing customer/user needs and expectations, diminishing use of the services and, consequently, vulnerability to further cuts in the future.

The change agenda for Retained Services will be centred on downsizing with minimal disruption – managing a continuous, broad and deep decline. In this scenario there is little operational/management space left for services to grasp a modernisation agenda. A Trust will retain the critical mass and confidence, with targeted savings achieved largely through rates remission and frontline services intact, to grip that agenda, enter into new and wider cross-sector partnerships and invest effort and resource in improving cultural provision.

### 2. BEING MORE DEMAND LED AND ENTERPRISING

To stay viable, Cultural Services must bring people to the spaces, services, experiences and products they offer. People must choose to use Cultural Services. The cultural sector is one of the most volatile and dynamic environments in which to work with, for example, new digital media and content constantly challenging and changing the way people consume culture and consequently challenging Cultural Services to develop and modernise is offering to the public. A Trust is set up to be more demand and market led. With its specific focus on Cultural Services a Trust can differentiate its customer/user base and address their specific needs and expectations. The commercial outlook and acumen of a Trust will make it more sensitive and responsive to the 'culture' marketplace.

Where the long-term trend in local government funding is towards continuous reduction in expenditure, optimising opportunities to generate revenue from commercial activity is essential to preserving the quality and reach of services; a Trust is set up to trade and it will have a commercial edge and therefore the capability to make the most of income generating opportunities.

Although the Services do generate significant income from admissions, hires and lets, there are income generating opportunities open to the Services which remain largely unexploited. The governance structure of a Trust should result in greater operational flexibility and quicker decision-making and the Board can bring new ideas, experience and skills to the Trust's work.

A Trust should therefore be better positioned to take a more commercial focus to the Services' activities and capture currently unrealised income, which can then be recycled into improving the Cultural Services offer – a virtuous circle where the improved offer generates more footfall, consequently increasing revenue.

## CHECKS AND BALANCES

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At the same time 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 how it will deliver them. Its commitment to these objectives will be monitored and tested by OSCR and by the Council through its performance management framework<sup>1</sup>. So the Cultural Services public service ethic can be safeguarded – possibly even better defined and embedded – in the charitable purposes of a Trust.

Good practice case studies show that a Trust, which builds a strong relationship with the Administration via the elected member representatives on the Board and with the corporate management team via a 'champion' (a key decision-maker at a high level within the organisation), will continue to make a strong contribution to public sector strategic partnerships and priorities.

### Notes:

1. The Scorecard was produced from three primary sources:
  - the scorecard developed by EKOS for their 2010 options appraisal of Community Services
  - the HMLe quality improvement framework for Culture and Sport
  - the values and improvement aims laid out in the draft strategy for Scottish Borders Council Community Services
2. Consultants Noble Openshaw were commissioned to quality check the Scorecard. They concluded that it was fit for purpose and capable of producing a robust conclusion about a preferred option. Noble Openshaw recommended some changes to scores which have been incorporated in this version of the scorecard.
3. Where there is a variance of more than one point between the scores for Transfer and Retention and Restructure, that variance is explained in the Rationale column.
4. The italics denote direct quotations.

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<sup>1</sup> Guidance on the Trust option which emphasises a Trust's social responsibilities and differentiates the Trust purpose from a private sector business: e.g. LG Exploring the Trust Option for Museum Services [2011] *"Whatever its legal form the key distinguishing features of an NPDO is that its profits cannot be distributed (e.g. to shareholders) but must be reinvested back into the organisation to further its objectives. This is the fundamental difference between a private sector share company and an NPDO. It means that all of the profits generated by the organisation are continually reinvested to improve the services provided."*

**LEADERSHIP & ETHOS: 'Will this arrangement enable Cultural Services to...'**

Criteria	weighting	Option 1 Transfer to a Trust	Option 2 Retention Restructure	Option1 weighted	Option2 weighted	RATIONALE	EVIDENCE
1. Improve the quality of Services	5	4	2	20	10	<p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>the creation of a Trust safeguards services and retains their capacity + capability to deliver improvement</li> <li>a Trust is a single focus organisation and, as a result, better able to direct its attention and limited resources to specific service improvements</li> <li>the Trust will create an organisation that can be more demand led and better focussed on improving the customer/user experience</li> <li>the Board can bring new ideas, experience and skills to quality improvement</li> </ul> <p><b>VARIANCE BETWEEN OPTIONS</b> The Trust Scores substantially higher here because the Retention and Restructure option will require savings to be found from a combination of service withdrawal and/or reduction, facility closure, and streamlined management and backroom support. The level of attrition to services and their management resulting from the current savings challenge will mean it is difficult for them to engage with an improvement agenda. It risks setting off a vicious cycle with deteriorating services struggling to adapt to changing customer/user needs and expectations, diminishing use of the services and, consequently, vulnerability to further cuts in the future.</p> <p><b>NOBLE OPENSHAW Leadership 1:</b> The differential on "improve quality" is likely to be heightened by the rates benefits for the transfer to trust and the cuts or closures necessary for internal savings will damage quality. The evidence from elsewhere is that at best transfer to trust will help protect services and leaves the better chance of protecting quality, but that having to make the cuts in-house leaves no chance of doing that, however skilled and committed the remaining staff are. We recommended that the scores should more clearly reflect the differential; either elevate the Option 1 score or depress the option 2 score.</p>	<p><b>EVIDENCE (from CULTURE TRUST BOOK)</b></p> <ul style="list-style-type: none"> <li>Key advantages of Trust option identified in industry publications; e.g. <ul style="list-style-type: none"> <li>potential advantages of Trust status identified by Audit Scotland in 'Arms Length External Organisations (ALEOs) ; are you getting it right' [2012] and by the Audit Commission</li> <li>national agency - Museums Libraries Archives (MLA) 'The opportunity of developed governance for museums, libraries and archives [2010] and 'Moving to Museum Trusts, Learning from Experience' [2006]</li> <li>Lawrence Graham 'Culture in Trust' <ul style="list-style-type: none"> <li>the speed of decision-making when freed from local authority bureaucracy – fleet-of-foot;</li> <li>being a single-focused body;</li> <li>the opportunity for improved investment by recycling surpluses and NNDR savings;</li> <li>a more focused and business-like management team; and</li> <li>more able to control own destiny.</li> </ul> </li> </ul> </li> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council; advantages of the Trust option <ul style="list-style-type: none"> <li>SBC could achieve some immediate cost savings through rates remission;</li> <li>this option would potentially encourage greater flexibility of operation, speed of decision-making, and accelerate service efficiencies and improvements;</li> </ul> </li> <li>Business case made by other Scottish local authorities for transferring to Trust –e.g. Highland Council. "The option to transfer the delivery of CLL activity to an ALO provides the Council with the opportunity not only to preserve the delivery of Community Learning and Leisure (CLL) services for the wellbeing of its citizens, but also to potentially enhance and develop them. The analysis indicates that, within a difficult financial climate for the Council, CLL services can contribute a recurring £1M in savings for the Council through an ALO, while potentially becoming more focussed on customer needs under the direction of a Board of Directors with business and community expertise.</li> <li>Testimonials in industry publications</li> </ul> <p>Evidence to Scottish Parliament 2012 by Trust managers e.g. Heather Stuart (convener of VOCAL Scotland and CEO Fife Culture Trust): "Alternative delivery models—not just trusts— offer a genuine opportunity to look at how we can protect services in the longer term for the benefit of communities. Such models can be set up so that they are still strongly linked to the democratic accountability of councils. Essentially, they are a way of delivering on the strategic priorities that they would have had, but with the financial savings and the opportunity to protect jobs and services." if you read some of the tomes for service contracts, you will see that they are having to become increasingly sophisticated in order to address all the (strategic) issues that we are discussing.... the key performance indicators and outcomes in local authority culture and leisure service plans that were important to elected members in local authorities will inevitably become what the trust is asked to deliver... there is usually an absolute read-across; at the end of the day, local authorities are reliant on trusts to deliver the statutory performance indicators that the Accounts Commission requires of them."</p>
2. Support and develop the workforce	3	4	3	12	9	<p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>following precedents set by other Cultural Services transfers in Scotland the Council may opt to permit the Trust access to core training courses whilst the Trust will be able to devise its own programme tailored to the specific/unique training and development needs of the workforce – a best of both worlds result</li> <li>the literature reviewing the experience of Trust transfers highlights improved motivation and a stronger sense of belonging amongst the workforce as a key benefit of transfer</li> <li>the Board can bring new perspectives from the private and third sectors to supporting and developing the workforce</li> </ul> <p><b>NOBLE OPENSHAW Leadership 2:</b> We feel there is no evidence to support the assertion</p>	<p><b>EVIDENCE (from CULTURE TRUST BOOK)</b></p> <ul style="list-style-type: none"> <li>Key advantages of Trust option identified in industry publications e.g. from LG Survey for 'Culture in Trust [2007] 'Effect on staff of Trust Status' <ul style="list-style-type: none"> <li>Staff are energised and motivated.</li> <li>Ability to attract a wider range of staff and skills.</li> <li>Increased staff training.</li> <li>New sense of purpose with better customer focus.</li> </ul> </li> <li>e.g. NALGAO 'Outside In: Contracting Out Local Authority Arts Services' 2010 <ul style="list-style-type: none"> <li>Staff morale: Independence and control provide motivation for management and staff.</li> </ul> </li> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council</li> <li>Testimonials in industry publications</li> </ul>



						<p>that there will be more options and opportunities in council training and development. Experience since establishment of a trust in Highland for example shows that, where the transfer to trust includes provision for reduced cost through shared training on core matters ( Health &amp; Safety etc), there is more opportunity for the trust to ensure staff are provided with bespoke specialist training. TUPE affords protection in the short to medium term. Transfer to trust provides some assurance that staff retain their jobs at least while the budget remains the same. In-house restructure does not, either at the time of implementation or later if the budget changes. We would expect the score for Option 1 to be elevated as a result.</p>	<p>Evidence to Scottish Parliament 2012 by Trust managers e.g. Gerry Campbell South Lanarkshire Leisure and Culture Trust; <i>“my experience, from across Scotland, is that when people are slightly removed from the local authority context, in an arm’s-length organisation, they appear to take a more entrepreneurial approach to how services can be delivered in the best way to meet the needs of the community ... Many people who manage a service look at it and think, “I’d like to make some changes”; they get the opportunity to stop the bus, make the change, put something different in place and manage things differently. That has certainly been our experience ... my experience is that, when a person walks into a library—we have 25 libraries in South Lanarkshire—the staff will, in addition to serving and providing information, openly talk about and promote other services. Another key piece of evidence is that, at the time of transfer, absence levels among the staff who transferred were probably 5 per cent or above. However, in the 18 months over which we have transferred staff in, we have achieved an absence rate of 3.4 per cent, which would hold its own in the private sector and is up there with some of the best levels that exist in the public sector. We work with the same budgets and the work is not radically different, but people are in a smaller organisation—1,200 people, as opposed to 15,000 in the council—and feel that they are a little bit more involved in their own destiny.”</i></p>
3. Modernise Services and create a culture that delivers change and innovation	3	5	3	15	9	<p>The improvement agenda for Cultural Services is a built around modernisation – transforming and innovating services to meet rapidly changing customer/user needs and expectations. So the reasons given in 1 above for the higher Trust score are equally applicable here.</p> <p><b>In addition the Trust scores higher in this criterion because:</b></p> <ul style="list-style-type: none"> <li>— the governance structure permits greater operational flexibility and quicker decision-making – qualities that contribute to making and managing change effectively</li> <li>— within the tighter focus of the Trust it should be possible to develop a unified organisational culture that prioritises change and innovation and commits to delivering modernisation</li> <li>— a Trust’s commitment to rapid modernisation and change will always be tempered by its charitable purposes and by the social objectives embedded in its contract with the Council</li> </ul> <p><u>VARIANCE BETWEEN OPTIONS</u></p> <p>The Trust Scores substantially higher here because the Retention and Restructure option will require savings to be found from frontline services. The change agenda for the Services will be centred on downsizing with minimal disruption – managing a continuous and deepened decline. In this scenario there is little operational/management space left for services to grasp a modernisation agenda.</p>	<p><u>EVIDENCE</u> (from CULTURE TRUST BOOK)</p> <ul style="list-style-type: none"> <li>— Key advantages of Trust option identified in industry publications; e.g. <ul style="list-style-type: none"> <li>▪ Lawrence Graham ‘Culture in Trust’ <ul style="list-style-type: none"> <li>○ <i>the speed of decision-making when freed from local authority bureaucracy – fleet-of-foot;</i></li> <li>○ <i>being a single-focused body;</i></li> <li>○ <i>the opportunity for improved investment by recycling surpluses and NNDR savings;</i></li> <li>○ <i>a more focused and business-like management team; and</i></li> <li>○ <i>more able to control own destiny.</i></li> </ul> </li> </ul> </li> <li>— EKOS Community Services options appraisal 2010 for Scottish Borders Council; advantages of the Trust option <ul style="list-style-type: none"> <li>▪ <i>this option would potentially encourage greater flexibility of operation, speed of decision-making, and accelerate service efficiencies and improvements;</i></li> <li>▪ <i>Trusts are increasingly recognised and accepted as an organisational model for services of the type managed by CS.</i></li> </ul> </li> <li>— Business case made by other Scottish local authorities for transferring to Trust</li> <li>— Testimonials in industry publications e.g. Rodney Hill, Chief Executive of Wigan Leisure and Culture Trust <i>“Becoming a Trust was a step change and gave us the energy and focus to make a number of significant changes which might not otherwise have been possible.”</i></li> </ul> <p>Evidence to the Scottish Parliament 2012 Heather Stuart (convener of VOCAL Scotland and CEO Fife Culture Trust): <i>“the big driver for the move to trusts has often been ... the need to secure a future for services. It is about not just the financial savings but ... creativity and innovation. There is evidence of that.”</i></p>
4. Maintain and improve professional standards in the care and maintenance of museum and archive collections and library stock; including acquisitions and disposal.	2	4	4	8	8	<p>Libraries, Museums and Archives manage a substantial repository of records, collections and stock of local, regional, national and international status. The services operate to strict standards for their care and maintenance – particularly the museum and archive collections.</p> <p><b>The two options score equally because:</b></p> <ul style="list-style-type: none"> <li>— the professional standards apply whether the records, collections and stock are in the care of the Council or in the care of a Trust</li> <li>— if services transfer to a Trust a Collections Agreement will be prepared to guarantee that the Trust, which will have custodianship (not ownership) of collections, applies established professional standards to their care and maintenance</li> </ul> <p><b>NOBLE OPENSHAW: Leadership 4:</b> There is no evidence to support the assertions about collections care or visitor services. How these, or any aspect of service provision, are taken forward will rely on how priorities are set and overseen. In the case of a trust, this will focus on the SLA and the service specifications and their oversight by the council. We would expect the scores for Options 1 and 2 to be evenly applied.</p>	<p><u>EVIDENCE</u></p> <ul style="list-style-type: none"> <li>— Museums and Galleries Scotland guidance on the proper care and maintenance of collections (from CULTURE TRUST BOOK)</li> <li>— Collections Agreements produced for transfer by other Scottish local authorities</li> <li>— A letter from the Keeper of the Records setting out the conditions upon which archival material can transfer into Trust management</li> </ul>

5. Enhance access to services, museum and archive collections, and library stock	4	3	2	12	8	<p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>widening and increasing access will be better embedded in the Services' core priorities in a Trust because this is a key determinant of charitable status and put at the centre of the social objectives of the Trust</li> <li>a Trust with its clarity of focus and purpose will be better placed to make a priority of customer/user needs and demands and then to commit resources to initiatives that widen and increase access to the Trust's core resources</li> <li>a Trust, with its continuing ability to concentrate effort on service development and modernisation and its more commercial edge, will be better positioned to deploy the collections and other resources as assets; consequently it will be better able to develop access initiatives with the purpose of generating more visits, higher attendances and consequently greater income</li> <li>the Board can bring new skills, experience and energy to increasing access</li> </ul>	<p><b>EVIDENCE</b> (from CULTURE TRUST BOOK)</p> <ul style="list-style-type: none"> <li>Key advantages of Trust option identified in industry publications</li> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council</li> <li>Business case made by other Scottish local authorities for transferring to Trust</li> <li>Testimonials in industry publications e.g. MLA 'Sharper Investment for Changing Times, Getting more out of Museums, Libraries and Archives' [2010]</li> </ul> <p>Testimonials from Trusts: Cllr Hazel Simmons on Luton Cultural Services Trust; <i>"The transfer [ . . . ] was the best way forward to enhance libraries, museums and arts for local people [ . . . ]. A charity running the services on a not-for-profit basis has meant resources not available to the council have been accessed, and speedier decisions made, meaning the focus has been on providing first class services to customers."</i></p>
6. Be centres for learning and skills development and make a substantial contribution to creative learning	3	3	3	9	9	<p><b>The two options score equally because:</b></p> <ul style="list-style-type: none"> <li>if Cultural Services are retained within the Council and, as a consequence, have to be downsized, the current commitment of Cultural Services to learning and skills development would be safeguarded, particularly where the Services make an essential and/or unique contribution to this agenda within the Council's and wider community planning priorities</li> <li>learning and skills development would sit at the centre of a Trust's charitable aims and a Trust would therefore have to make specific commitments to delivering against this agenda</li> <li>learning and skills development targets can be written into the Council's agreement with a Trust and specified in its performance management framework</li> </ul>	<p><b>EVIDENCE</b> (from CULTURE TRUST BOOK)</p> <ul style="list-style-type: none"> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council; advantages of the Trust option <ul style="list-style-type: none"> <li><i>this option would potentially encourage greater flexibility of operation, speed of decision-making, and accelerate service efficiencies and improvements;</i></li> </ul> </li> <li>Service contracts and performance frameworks produced for Trust transfer in other Scottish local authorities</li> </ul>
7. Engage effectively with vulnerable and disadvantaged groups	2	3	4	6	8	<p><b>The Retain and Restructure scores higher because:</b></p> <ul style="list-style-type: none"> <li>the networks established within and between Council Services and the Community Planning partnerships to address the needs of vulnerable and disadvantaged groups are particularly strong; contributing to work with the vulnerable and disadvantaged will likely be easier from within the organisational and strategic framework of the Council</li> <li>the integrated services agenda led from within the Council is helping to improve engagement with the vulnerable and disadvantaged; Cultural Services are already a key player in the integrated services agenda and it is likely that, retained within the Council and with continuing proximity to Customer Services, they can make a more effective contribution to the integrated services agenda</li> </ul>	<p><b>EVIDENCE</b> (from Retained Book)</p> <ul style="list-style-type: none"> <li>project managers' assessment</li> <li>outcomes based options appraisal 2009</li> </ul>
8. Demonstrate open, transparent, accountable decision-making	4	4	4	16	16	<p><b>The two options score equally because:</b></p> <ul style="list-style-type: none"> <li>if Cultural Services are retained within the Council they will operate within the Council's democratic framework and its open, transparent, accountable decision-making</li> <li>if Cultural Services are transferred to a Trust the governance regime will make the Trust accountable to OSCR and Companies House, requiring it to demonstrate that its decision-making is robust, fair and open to scrutiny by regulators and by the public</li> <li>the Board of a Trust will include Councillors with the same fiduciary responsibilities and voting rights as all Board members; the Councillors will provide a direct link to the Council's own democratic decision-making</li> <li>the agreement between a Trust and the Council will specify the Council's expectations of the extent and quality of the openness and transparency shown by the Trust and its accountability to the Council</li> </ul>	<p><b>EVIDENCE</b> (from CULTURE TRUST BOOK)</p> <ul style="list-style-type: none"> <li>Burness guidance on the governance and legal entity of the Trust and its consequent democratic responsibilities</li> <li>examples in Scotland of Service Agreements made between Culture Trusts and Council</li> <li>link to OSCR and information on the accountability required from charitable organisations</li> </ul> <p>Evidence to Scottish Parliament 2012 by Trust managers e.g. Heather Stuart (convener of VOCAL Scotland and CEO Fife Culture Trust): <i>A focus on Trusts' "governance and accountability, with a direct link back to the democratic accountability and strategic direction setting of the council. Increasingly, trusts are being set up as companies of which the council is the sole member. From a procurement perspective, that means that, where work has been awarded to an arm's-length organisation, in reality—in terms of procurement and state aid law—that organisation is deemed to be part of the body commissioning the work. That means that it is required to meet all the same procurement and state aid rules as the council, and it means that it is not vulnerable to legal challenge. It also addresses some of the concerns about a lack of sufficiently robust governance and accountability, such as exist within councils."</i></p>
				<b>98</b>	<b>77</b>		

**RELEVANT SERVICES: 'Will this arrangement enable Cultural Services to...'**

CRITERIA	weighting	Option 1 Transfer to a Trust	Option 2 Retention Restructure	Option1 weighted	Option2 weighted	RATIONALE	EVIDENCE
1. Make a stronger contribution to the delivery of strategic priorities and actions decided by the Council, community planning partners and national agencies.	5	3	3	15	15	<p>This criterion is related to criteria 1, 3 and 7 in the Leadership and Ethos section of the scorecard and so some of the reasons stated for the scoring of these criteria above are a useful supplement to the argument below.</p> <p><b>The two options score equally because:</b></p> <ul style="list-style-type: none"> <li>if Cultural Services are retained within the Council they will remain embedded in the Council's strategic infrastructure and the community planning process and therefore close to the centre of strategic decision-making</li> <li>good practice case studies demonstrate that services transferred to a Trust can continue to make a strong contribution to public sector strategic priorities; this is where the Trust establishes a direct line back into the Council – back to the Administration via the elected member representatives on the Board and to corporate management team via a 'champion', a key decision-maker at a high level within the organisation; these actions ensure the Trust remains a member of the Council 'family'</li> <li>the national cultural agencies will go to where strategic decision-making is taking place within the region – if Services are retained then the current partnerships with national agencies will remain in place and, if the Services are transferred to a Trust with the Trust becoming the culture agency for the region, the Trust will recreate that partnership with the national agencies</li> </ul>	<p><b>EVIDENCE</b> (from CULTURE TRUST BOOK)</p> <ul style="list-style-type: none"> <li>best practice case studies from appraisal and review of the Trust option</li> <li>study visits – e.g. to Link-4-Life (Rochdale) where the CEO sits on Council Corporate Management Team</li> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council; advantages of the Trust option <ul style="list-style-type: none"> <li><i>this option would potentially encourage greater flexibility of operation, speed of decision-making, and accelerate service efficiencies and improvements;</i></li> <li><i>the governance model of a single-member Trust would enable SBC to retain full control but at the same time introduce commercial and community input;</i></li> <li><i>Trusts are increasingly recognised and accepted as an organisational model for services of the type managed by CS.</i></li> </ul> </li> <li>business case made for transfer to Trust by other Scottish local authorities e.g. Fife "The creation of a single cultural trust would ... offers a strong and unique connecting voice to Creative Scotland and other national bodies on which cultural services increasingly tend to rely for additional programme and project funding"</li> <li>national agency support for investigating alternative governance models for Cultural Services the Trust model: e.g. Museums and Galleries Scotland Choices for Change Toolkit and MLA publications</li> <li>Testimonials in industry publications e.g. Rodney Hill, Chief Executive of Wigan Leisure and Culture Trust "In partnership, we have been able to make a number of key strategic changes which have helped to transform services. <ul style="list-style-type: none"> <li><i>being at arm's length from the local authority has given us the ability to be more fleet of foot which enables decisions to be implemented more quickly;</i></li> <li><i>this does not preclude us working closely with the local authority in developing a wider strategy for cultural services and, in partnership, we have been able to make a number of key strategic changes which have helped to transform services; and</i></li> <li><i>the focus of our first five years has been on increasing participation with improvements in all our main indicators around participation."</i></li> </ul> </li> </ul> <p><b>EVIDENCE</b> (from RETAINED BOOK)</p> <ul style="list-style-type: none"> <li>2009 Outcomes options appraisal which identified key public policy outcomes delivered by Community Services in the Scottish Borders and the network of partnerships within which the Services operate to achieve these outcomes</li> </ul>
2. Deliver significant economic and social impact and contribute to the Scottish Borders' vibrancy and quality of life	3	4	3	12	9	<p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>the governance regime for a Trust – a company limited by guarantee with a trading arm – will guarantee a commercial edge to the Trust's activities and set economic impact as a key marker of the Trust's success; the Trust is consequently better placed to focus on and deliver economic impact</li> <li>in order to secure charitable status a Trust will have to define its social objectives and demonstrate how it will deliver these, and its commitment to these social objectives will be monitored and tested by OSCR and by the Council through its performance management framework; a Trust will have, as a consequence, to apply more clarity and focus around social impacts</li> <li>a Trust, with its continuing ability to invest effort and resource in improving the reach and quality of its services will be better positioned to develop initiatives that contribute to the region's vibrancy and quality of life and promote it positively imaginatively and confidently to visitors and tourists</li> </ul>	<p><b>EVIDENCE</b> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council</li> <li>Testimonials in industry publications e.g. Rodney Hill, Chief Executive of Wigan Leisure and Culture Trust; "operating our services as a business with the challenge of meeting both social and financial objectives, i.e. the bottom line, has led to a much keener focus on what we do;"</li> <li>Guidance on the Trust option which emphasises a Trust's social responsibilities and differentiates the Trust purpose from a private sector business: e.g. LG Exploring the Trust Option for Museum Services [2011] "Whatever its legal form the key distinguishing features of an NPDO is that its profits cannot be distributed (e.g. to shareholders) but must be reinvested back into the organisation to further its objectives. This is the fundamental difference between a private sector share company and an NPDO. It means that all of the profits generated by the organisation are continually reinvested to improve the services provided."</li> </ul>
3. Produce better integrated and joined up Services	4	4	4	16	16	<p>This criterion can be related to 1 above.</p> <p><b>The two options score equally because:</b></p> <ul style="list-style-type: none"> <li>if Cultural Services are retained within the Council they will remain embedded in the Council's framework of services and closer to the Council's own and wider public sector integration initiatives: consequently they will be better positioned to promote opportunities for Cultural Services to join together with adjacent services and strengthen strategic ally and operationally.</li> <li>a Trust will be a key player in the third/voluntary sector; from that position the</li> </ul>	<p><b>EVIDENCE</b> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council; advantages of the Trust option <ul style="list-style-type: none"> <li><i>this option would potentially encourage greater flexibility of operation, speed of decision-making, and accelerate service efficiencies and improvements;</i></li> <li><i>the governance model of a single-member Trust would enable SBC to retain full control but at the same time introduce commercial and community input;</i></li> <li><i>Trusts are increasingly recognised and accepted as an organisational model for services of the type managed by CS.</i></li> </ul> </li> </ul>

						Trust will be better able to see and make the most of opportunities to integrate services across sectors – sharing strategic priorities and initiatives with third/voluntary sector partners as well as public sector agencies	<u>EVIDENCE</u> (from TCoS project) — Implemented TCoS initiatives – the integration of Libraries and Contact Centres
4. Build wider partnerships across Council services, and public, private and third sectors to sustain, develop and improve cultural provision	3	4	3	12	9	<p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>— a Trust, working in the third sector, combining public service values with a third sector social enterprise ethos, is better placed to grow a network of cross-sectoral strategic and operational partnerships</li> <li>— good practice case studies demonstrate that services transferred to a Trust, where they remain, through strong structural ties, a member of the Council 'family', will continue to make a strong contribution to public sector strategic partnerships and priorities</li> <li>— a Trust, as a single purpose organisation, is better able to provide a point of focus for the cultural sector, advocate the sector and address its needs</li> <li>— a Trust will retain the critical mass and confidence, with targeted savings achieved largely through rates remission and frontline services intact, to enter into new and wider cross-sector partnerships and invest effort and resource in improving cultural provision</li> </ul>	<p><u>EVIDENCE</u> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>— Key advantages of Trust option identified in industry publications; e.g. MLA 'Moving to Museum Trusts: Learning From Experience' 2006 "... opportunities to make new connections and develop new partnerships (both in the museum sector and outside)."</li> </ul> <p>Evidence to Scottish Parliament 2012 by Trust managers e.g. Heather Stuart (convener of VOCAL Scotland and CEO Fife Culture Trust): A focus on Trusts'' <i>In setting up what are increasingly robust contracts, authorities need someone who is an expert in contract monitoring to hold the trust to account on what must be delivered. That is the quantitative side of things. You also need a well-functioning relationship between the trust's chief executive and its senior team and senior council officers with related responsibilities or client monitoring responsibilities. With regard to democratic accountability, I strongly feel that you need some type of committee or sub-committee model where the chief executive and perhaps the board members are regularly given the opportunity to showcase the trust's work, to give performance information and to be held accountable for public money. With those three things in place, there would in many cases be a much more robust scrutiny and monitoring framework than there perhaps would be for in-house services."</i></p>
5. Build a web and digital media platform to interact with customers and users and deliver services	3	4	2	12	6	<p><b>Note:</b> To remain viable, Cultural Services must bring customers and users to the spaces, services, experiences and products they offer. Most customers and users expect to find these Services easily online. They expect to find out what there is to see and do, buy tickets to see and take part in activities, buy services and products, hire venues and to interact with services – all online.</p> <p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>— a Trust with its specific focus on Cultural Services can differentiate its customer/user base and address their needs and expectations with a web and digital media platform designed for them and to bring them to the services</li> <li>— a Trust provides a more effective organisational setup and culture – more business oriented, with greater flexible and quicker decision-making – to introduce a stronger commercial edge to Cultural Services' activities, be more demand led, and customer focussed; consequently the Trust will have stronger incentive to ensure that it builds an effective web and digital media platform for and with its customers</li> </ul> <p><u>VARIANCE BETWEEN OPTIONS</u> The Trust Scores substantially higher here because it is much better placed to develop a web and digital media platform that is tailored exactly to the needs and expectations of Cultural Services' customers and users. Retained within the Council, Cultural Services will have to find their niche within a much bigger corporate web and digital media framework that has to deliver across all of the Council's business. It is unlikely in this scenario that the Council could make a priority of and provide investment for the specific/unique needs of Cultural Services – e.g. online selling, box office and listings functionality.</p>	<p><u>EVIDENCE</u></p> <ul style="list-style-type: none"> <li>— project managers' assessment</li> <li>— needs assessment – web and digital media – for Cultural Services prepared by project managers</li> <li>— review of Culture Trust websites</li> </ul>
				<b>67</b>	<b>55</b>		



**RESILIENT SERVICES: ‘Will this arrangement enable Cultural Services to...’**

CRITERIA	weighting	<u>Option 1</u> Transfer to a Trust	<u>Option 2</u> Retention Restructure	<u>Option1</u> weighted	<u>Option2</u> weighted	RATIONALE	EVIDENCE
1. Achieve savings and sustain services within a reduced budget	5	4	2	20	10	<p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>— a Trust can achieve the substantial majority of the savings target set for Cultural Services through rates remission; therefore frontline services can be safeguarded:</li> <li>— (see 1,3 and 7 in Leadership and Ethos and a 1 in Relevant Services) a Trust can preserve the critical mass and core strength of Cultural Services to and will therefore have greater capacity and capability to innovate and change services in the future to make them more resilient and sustainable</li> </ul> <p><u>VARIANCE BETWEEN OPTIONS</u> In the Retention and Restructure option rates remission is not available and savings will have to be found from a diet of service reduction and/or withdrawal, the closure of facilities and streamlining frontline staff and management. Making, the level of savings required will result in considerable damage to Services and the management of decline into the foreseeable future.</p>	<p><u>EVIDENCE</u> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>— Key advantages of Trust option identified in industry publications; e.g. <ul style="list-style-type: none"> <li>▪ Lawrence Graham ‘Culture in Trust’ <ul style="list-style-type: none"> <li>○ <i>the speed of decision-making when freed from local authority bureaucracy – fleet-of-foot;</i></li> <li>○ <i>being a single-focused body;</i></li> <li>○ <i>a customer-first improved quality of service</i></li> <li>○ <i>the opportunity for improved investment by recycling surpluses and NNDR savings;</i></li> <li>○ <i>a more focused and business-like management team; and</i></li> <li>○ <i>more able to control own destiny.</i></li> </ul> </li> </ul> </li> <li>— Audit Scotland ‘Arms Length External Organisations (ALEOs) ; are you getting it right’ [2012]: potential advantages of Trust status <ul style="list-style-type: none"> <li>▪ <i>clear identity and service focus; more independent of Council decisions</i></li> <li>▪ <i>potential cost and business rates/tax advantages</i></li> </ul> </li> <li>— Business case made by other Scottish local authorities for transferring to Trust : <ul style="list-style-type: none"> <li>▪ e.g. Highland Council. <i>“If the Council establishes an ALO to manage and deliver CLL services it can achieve an estimated annual recurring saving of £1M;The main risk to the Council in continuing to deliver CLL services in house is the inability to achieve the estimated recurring saving of £1M and the consequent reduction in service that would be required to achieve budget savings targets”</i></li> <li>▪ e.g. Councillor Adrian Mahoney, Convener of Leisure, Tourism and Community at Fife Council: <i>“More than half the Councils in Scotland have already established trusts, recognising they can bring community benefits and save money. At a time when budgets are tight and local services are under extreme pressure, we need to look at all ways to protect frontline services and jobs. I'm certain the Trust will help achieve that. In addition, by setting up a charity like this, we're also giving many important community services the chance to tap into external funding not open to the Council.”</i></li> </ul> </li> <li>— EKOS Community Services options appraisal 2010 for Scottish Borders Council; advantages of the Trust option <ul style="list-style-type: none"> <li>▪ <i>SBC could achieve some immediate cost savings through rates remission;</i></li> <li>▪ <i>a Trust would potentially have access to external funding and finance that SBC cannot access (e.g. grant-making trusts, social investors), although the availability of external finance should not be overestimated;</i></li> <li>▪ <i>the option may help to release the trading potential within CS services, such as the development of new products and services, diversification from existing services, and the development of new markets for existing services; and</i></li> </ul> </li> </ul> <p>Testimonials to Scottish Parliament 2012 by Trust managers e.g. Heather Stuart (convener of VOCAL Scotland and CEO Fife Culture Trust): <i>“Alternative delivery models—not just trusts— offer a genuine opportunity to look at how we can protect services in the longer term for the benefit of communities. Such models can be set up so that they are still strongly linked to the democratic accountability of councils. Essentially, they are a way of delivering on the strategic priorities that they would have had, but with the financial savings and the opportunity to protect jobs and services.”</i></p>
2. Safeguard the Services’ reach and impact across Scottish Borders communities	4	4	3	16	12	<p><b>Note:</b> The operating model for Cultural Services has been built on the local delivery of services from local facilities. Cultural Services has just about the longest reach of all Council services. The Library mobiles visit some of the Scottish Borders remotest rural communities and the rural housebound.</p> <p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>— a Trust can preserve the reach of services by delivering savings through rates remission and, therefore protecting frontline service delivery</li> </ul>	<p><u>EVIDENCE</u> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>— Business case made by other Scottish local authorities for transferring to Trust : e.g. North Lanarkshire Council <ul style="list-style-type: none"> <li>▪ <i>“Option 1 - Reconfigured in-house Services</i> <ul style="list-style-type: none"> <li>▪ <i>no NNDR savings can be released;</i></li> <li>▪ <i>realising f800k in recurring revenue savings would lead to significantly reduced services to communities and possible cessation of services. More specifically, reductions in employee numbers and/or building closures would be required. In respect of closures this would equate to c50 community facilities or, in employee terms, up to 30 employees (based on average salary across the service) or a combination thereof.</i></li> </ul> </li> </ul> </li> </ul>

3. Address underperformance and declining usage	3	4	3	12	9	<p><b>Note:</b></p> <ol style="list-style-type: none"> <li>Across Cultural Services, there are pockets of underperformance. Mainly the result of chronic underinvestment, with most Service budgets significantly below the national average per capita spend, this underperformance nevertheless must be addressed.</li> <li>This criterion relates to criteria 1 and 2 in Leadership and Ethos</li> </ol> <p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>a Trust can achieve the savings target for Cultural Services without having to resort to substantial service reductions which would inevitably further harm the performance of the services and accelerate the decline in their use</li> <li>a Trust with its clarity of focus and purpose and a more commercial outlook (new skills, ideas and experience introduced by the Board) would be better positioned to address declining use by improving the customer experience</li> <li>the Trust will be tied into a performance management framework and specific targets agreed with the Council; it can therefore operate with greater clarity about the expectations of Service performance and monitor and report performance more effectively</li> </ul> <p><b>NOBLE OPENSHAW: Resilient Services 3:</b> We believe the evidence suggests that the differential between the two options could be greater. Performance will be an important element of both options, but measurement of success is by definition of greater significance to the continuation of the trust and therefore a greater preoccupation in the setting of performance measures, expectations of managers and staff training and development priorities</p>	<p><b>EVIDENCE</b> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council; advantages of the Trust option <ul style="list-style-type: none"> <li>this option would potentially encourage greater flexibility of operation, speed of decision-making, and accelerate service efficiencies and improvements;</li> <li>the option may help to release the trading potential within CS services, such as the development of new products and services, diversification from existing services, and the development of new markets for existing services; and</li> </ul> </li> </ul>
4. Manage risk effectively	3	3	5	9	15	<p><b>The Retain and Restructure option scores higher because:</b></p> <ul style="list-style-type: none"> <li>risk management is embedded in the Council's culture and operation, underpinned by an expansive audit regime and, as a consequence, within this supportive framework the Retained Services will be better able to manage risk</li> </ul> <p><b>VARIANCE BETWEEN OPTIONS</b></p> <p>A Trust will not have the resources to replicate the Council's risk management and overarching internal audit regimes. It can benefit from the experience of managers who transfer from the Council to the Trust but will have to develop a lighter touch and hence less failsafe approach to the effective management of risk.</p>	<ul style="list-style-type: none"> <li>Council's risk management methodology</li> </ul>
5. Successfully deliver change	3	4	3	12	9	<p>This criterion is related to criteria 1-3 in the Leadership and Ethos Section and the reasons for the Trust option scoring higher there apply equally here.</p> <p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>a Trust can achieve the savings target for Cultural Services and safeguard services; a Trust's change agenda and its resources can be committed to service improvement, innovation and modernisation rather than the management of decline</li> <li>a Trust is a single focus organisation which can more effectively produce and deliver a change programme tailored specifically to the needs of the cultural sector</li> <li>within a new organisation, that has a well-defined commitment to delivering social, economic and educational impact through cultural provision, it should be possible to foster a culture that more effectively delivers change and innovation</li> <li>the governance structure of a Trust should result in greater operational flexibility and quicker decision-making – qualities that contribute to making and managing change effectively</li> <li>the Board can bring new ideas, experience and skills to the work of the Trust that facilitate and accelerate change</li> </ul>	<p><b>EVIDENCE</b> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>Key advantages of Trust option identified in industry publications; e.g. LG Exploring the Trust Option Museum Services 2011 "Transferring a service to a Trust will not in itself transform the service. It is essential, therefore, that the feasibility stage identifies the critical success factors and most importantly resources are put in place to deliver the required change programme. Quick wins are important. However, the real measure of success must be sustainability and continuous service improvements. Success will depend on the leadership, commitment and culture of the new organisation and importantly in this context, the willingness of the staff involved to embrace the organisational change and opportunities the NPDO presents.</li> <li>Audit Scotland 'Arms Length External Organisations (ALEOs) ; are you getting it right' [2012]: potential advantages of Trust status <ul style="list-style-type: none"> <li>clear identity and service focus; more independent of Council decisions</li> <li>scope for more responsive decision-making</li> <li>potential cost and business rates/tax advantages</li> </ul> </li> <li>EKOS Community Services options appraisal 2010 for Scottish Borders Council; advantages of the Trust option <ul style="list-style-type: none"> <li>this option would potentially encourage greater flexibility of operation, speed of decision-making, and accelerate service efficiencies and improvements;</li> </ul> </li> </ul>
				69	55		

**RESPONSIVE SERVICES: 'Will this arrangement enable Cultural Services to...'**

CRITERIA	weighting	<u>Option 1</u> Transfer to a Trust	<u>Option 2</u> Retention Restructure	<u>Option1</u> weighted	<u>Option2</u> weighted	RATIONALE	EVIDENCE
1. Strengthen knowledge and intelligence about the Services' customers and users	2	5	3	10	6	<p><b>Note:</b> Cultural Services depend on people crossing the threshold of its facilities, attending its programme of activities and buying its products. People must choose to use the Services and, as a result the Services must adapt quickly and effectively to changing customer and user needs and expectations. The cultural sector is one of the most volatile and innovative environments in which to work with, for example, new digital media and content, constantly challenging and changing the way people consume culture and consequently challenging Cultural Services to develop and modernise is offering to the public.</p> <p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>the governance structure of a Trust – a charitable company limited by guarantee with a trading arm – is more attuned to developing commercial activity; being more commercial means that the Trust must continually strengthen its knowledge and intelligence about customers and users</li> <li>a Trust Board can introduce new commercial acumen to Cultural Services and with it new skills, ideas and experience on marketing the Cultural Services offering, based on improved knowledge and intelligence about customers and users</li> </ul> <p><u>VARIANCE BETWEEN OPTIONS</u> A Trust is a stronger vehicle for developing Cultural Services' customer and user base. The Trust is more demand and market led. It should be possible to design into the Trust more flexibility, quicker decision-making and the ability rapidly to adapt to change. A new commercial outlook and acumen can be introduced into the Trust, particularly with the recruitment of a Board where these business skills are placed at a premium.</p>	<p><u>EVIDENCE</u> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>Key advantages of Trust option identified in industry publications; e.g. <ul style="list-style-type: none"> <li>Lawrence Graham 'Culture in Trust' <ul style="list-style-type: none"> <li>being a single-focused body;</li> <li>a customer-first improved quality of service</li> <li>a more focused and business-like management team; and</li> </ul> </li> </ul> </li> <li>EKOS Options Appraisal for Community Services 2010 <ul style="list-style-type: none"> <li>the option may help to release the trading potential within CS services, such as the development of new products and services, diversification from existing services, and the development of new markets for existing services; and</li> <li>Trusts are increasingly recognised and accepted as an organisational model for services of the type managed by CS.</li> </ul> </li> </ul>
2. Be demand led; meet changing customer, user and community needs and expectations of the services	4	4	2	16	8	<p>This criterion relates to 1 above in this section and 5 in the Resilient Services section and the reasons for the Trust option scoring higher there apply equally here.</p> <p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>a Trust, although it has charitable purposes and must recycle profit back into its mainline charitable activity, is set up to trade; to trade successfully a Trust has to be demand led and strongly focussed on customer and users needs and expectations</li> </ul> <p><u>VARIANCE BETWEEN OPTIONS</u> A Trust is set up to be more demand and market led. The commercial outlook and acumen of a Trust will make it more sensitive and responsive to the 'culture' market. A Trust will be better positioned to address and turn around declining use which is, currently, a significant threat to the future viability of Cultural Services.</p>	<p><u>EVIDENCE</u> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>Key advantages of Trust option identified in industry publications; e.g. <ul style="list-style-type: none"> <li>Lawrence Graham 'Culture in Trust' <ul style="list-style-type: none"> <li>a customer-first improved quality of service</li> <li>a more focused and business-like management team; and</li> </ul> </li> </ul> </li> <li>EKOS Options Appraisal for Community Services 2010 <ul style="list-style-type: none"> <li>the option may help to release the trading potential within CS services, such as the development of new products and services, diversification from existing services, and the development of new markets for existing services; and</li> <li>Trusts are increasingly recognised and accepted as an organisational model for services of the type managed by CS.</li> </ul> </li> <li>Business case made by other Scottish local authorities for transferring to Trust e.g. Highland Council. "The option to transfer the delivery of CLL activity to an ALO provides the Council with the opportunity not only to preserve the delivery of CLL services for the wellbeing of its citizens, but also to potentially enhance and develop them. The analysis indicates that, within a difficult financial climate for the Council, CLL services can contribute a recurring £1M in savings for the Council through an ALO, while potentially becoming more focussed on customer needs under the direction of a Board of Directors with business and community expertise."</li> </ul>
3. Engage with customers, users and communities on the future design and delivery of services	3	3	4	9	12	<p><b>The Retained option scores higher because:</b></p> <ul style="list-style-type: none"> <li>the Council is devoting resource and developing the apparatus, particularly through community planning, to engage better with communities in the Scottish Borders; this action will be accelerated in the Council and community planning partnerships by the Scottish Government's 'Empowering Communities' programme</li> <li>the Council is committed to engaging with the public on the future design and delivery of services</li> </ul>	<ul style="list-style-type: none"> <li>Council's publications on engaging and involving communities in decision-making</li> </ul>
				<b>35</b>	<b>26</b>		

## ENTERPRISING SERVICES: 'Will this arrangement enable Cultural Services to...'

CRITERIA	weighting	<u>Option 1</u> Transfer to a Trust	<u>Option 2</u> Retention Restructure	<u>Option1</u> weighted	<u>Option2</u> weighted	RATIONALE	EVIDENCE
1. Exploit income generating potential from commercial activity	5	5	3	25	15	<p>This criterion relates to 1 and 2 in the Responsive Services section and the reasons for the Trust option scoring higher there apply equally here.</p> <p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>— where the long-term trend in local government funding is towards continuous reduction in expenditure, optimising opportunities to generate revenue from commercial activity is essential to preserving the quality and reach of services; a Trust is set up to trade and it will have a commercial edge and therefore the capability to make the most of income generating opportunities</li> <li>— a Board can introduce new skills, ideas and experiences in business and marketing to the Trust</li> </ul> <p><u>VARIANCE BETWEEN OPTIONS</u></p> <p>Cultural Services have a public service ethic which can be safeguarded – possibly even better defined and embedded – in the charitable purposes of a Trust. Although the Services do generate significant income from admissions, hires and lets, there are income generating opportunities open to the Services which remain largely unexploited. A Trust should be better positioned to take a more commercial focus to the Services' activities and capture currently unrealised income, which can then be recycled into improving the Cultural Services offer – a virtuous circle where the improved offer generates more footfall, consequently increasing revenue.</p>	<p><u>EVIDENCE</u> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>— reason for establishing the Borders Sports and Leisure Trust – to create “a more market-focused responsive and dynamic organisation.”</li> <li>— Business case made by other Scottish local authorities for transferring to Trust : <ul style="list-style-type: none"> <li>▪ e.g. Highland Council. a Trust can “enhance service quality and income through increased focus on service provision under the direction of the Board (and) expand business activity through trading subsidiary for catering and merchandising.”</li> <li>▪ e.g. Fife Council (committee report 2011) “A trust could offer room for greater flexibility &amp; further improvement: <ul style="list-style-type: none"> <li>○ More focused, commercially-aware and proactive management team</li> <li>○ Single focused body with a clearer sense of direction &amp; the ability to focus on core business</li> <li>○ Greater flexibility and freedom to develop according to customer/audience needs</li> </ul> </li> </ul> </li> <li>— EKOS Options Appraisal for Community Services 2010 <ul style="list-style-type: none"> <li>▪ the option may help to release the trading potential within CS services, such as the development of new products and services, diversification from existing services, and the development of new markets for existing services; and</li> <li>▪ Trusts are increasingly recognised and accepted as an organisational model for services of the type managed by CS.</li> </ul> </li> </ul>
2. Be more strategic and successful in raising external funding and new investment	4	4	2	16	8	<p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>— there are external funding sources – primarily grant support from Trusts and Foundations – which are unavailable to the local authority</li> <li>— a Trust can benefit from gift aid on donations</li> <li>— Board members from the business community can use their networks to explore new investment opportunities</li> </ul> <p><u>VARIANCE BETWEEN OPTIONS</u></p> <p>A Trust can raise new and additional funding from sources inaccessible to the Council. It is a significant advantage of Trust status, although it is important not to overstate the scale and immediacy of the potential gain from new funding. However, in a climate where budgets are under attrition, any new fundraised income improves</p>	<p><u>EVIDENCE</u> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>— Audit Scotland ‘Arms Length External Organisations (ALEOs) ; are you getting it right’ [2012]: potential advantages of Trust status <ul style="list-style-type: none"> <li>▪ opportunities to attract external investment</li> </ul> </li> <li>— Business case made by other Scottish local authorities for transferring to Trust : e.g. Fife Council (committee report 2011) Improved quality of service and greater customer-focus <ul style="list-style-type: none"> <li>▪ Opportunity for improved investment by recycling surpluses or savings</li> <li>▪ Greater attractiveness of the stand-alone body to potential funders and donors</li> </ul> </li> <li>— EKOS Options Appraisal for Community Services 2010 <ul style="list-style-type: none"> <li>▪ a Trust would potentially have access to external funding and finance that SBC cannot access (e.g. grant-making trusts, social investors), although the availability of external finance should not be overestimated;</li> </ul> </li> <li>— Testimonials in industry publications e.g. Wigan Leisure and Culture Trust “other key advantage of Trust status ... has been the ability to generate investment for the library service. Money attracts money, and the ability to invest makes the service a serious partner and able to attract other resources.”</li> </ul>
3. Improve the marketing and promotion of Services	3	4	2	12	6	<p>This criterion relates to 1 and 2 in the Responsive Services section and 1 in this section and the reasons for the Trust option scoring higher there apply equally here.</p> <p><b>The Trust scores higher because:</b></p> <ul style="list-style-type: none"> <li>— a Trust is set up to trade: to trade effectively and make the most of its commercial potential a Trust will have to raise the bar on the marketing and promotion of services</li> <li>— with its tighter focus a Trust will be better able to develop a brand for the Services which is capable of stimulating recognition/loyalty amongst potential customers and users and can contribute to increased footfall and sales</li> <li>— a Board can introduce new skills, ideas and experiences in marketing to the Trust</li> </ul> <p><u>VARIANCE BETWEEN OPTIONS</u></p> <p>Cultural Services have a limited opportunity within the corporate entity of the Council to differentiate themselves and market and promote their activities. At the same time the Services are unique in their need to bring customers and users to them. Declining use is a key threat to the future of the Services and this makes their effective marketing and promotion even more vital. A Trust, with its commercial edge, tighter focus and</p>	<p><u>EVIDENCE</u> (from Culture Trust Book)</p> <ul style="list-style-type: none"> <li>— Key advantages of Trust option identified in industry publications; e.g. <ul style="list-style-type: none"> <li>▪ Lawrence Graham ‘Culture in Trust’ <ul style="list-style-type: none"> <li>○ a customer-first improved quality of service</li> <li>○ a more focused and business-like management team; and</li> </ul> </li> </ul> </li> <li>— reason for establishing the Borders Sports and Leisure Trust – to create “a more market-focused responsive and dynamic organisation.”</li> <li>— EKOS Options Appraisal for Community Services 2010 <ul style="list-style-type: none"> <li>▪ the option may help to release the trading potential within CS services, such as the development of new products and services, diversification from existing services, and the development of new markets for existing services; and</li> </ul> </li> </ul>

						capacity to draw new skills, ideas and experiences in marketing and promotion to the Services is better positioned to address these demands.	
				<b>53</b>	<b>29</b>		

Total                    **322**                    **240**



**Appendix 3: Retain and Restructure;** Indicative Options to Achieve Savings of £336k [Financial Plan savings target of £406k plus outstanding management saving of £60k less £130k already approved via Mobile Library review]

	Option 1	Saving	Costs	Net	Option 2	Saving	Costs	Net	Explanatory Notes
<b>HALLS</b>	Close large Civic Hall	-47,000	27,000	-20,000	Close three smaller Town Hall	-48,000	23,000	-25,000	The decisions on which Halls are considered for closure will be based on two linked criteria – use [occupancy rates] and financial efficiency [income generated as a percentage of expenditure].
<b>PUBLIC LIBRARIES</b>	Close one hub Library	-108,000	17,000	-91,000	Close three smaller branch Libraries	-114,000	21,000	-93,000	The decisions on which Libraries are considered for closure will be based on linked use statistics, eg visits and volume of lending. As various agencies and services move to a default position of 24/7 online self-help access closing sites will have an impact on the Council's ability to deliver on Welfare reform and the Scottish Government's digital inclusion and participation strategies. In towns where libraries are closed, the Mobile Library fleet could provide an alternative service. However, the contraction of the Mobile Library fleet, approved by Council in January 2014, reduces their capacity to substitute for branch libraries. It is likely that towns losing their library building would receive only one visit every 4 weeks.
<b>SCHOOL LIBRARIES</b>	restructure School Library Service by better aligning grades to duties and responsibilities	-20,000		-20,000	restructure School Library Service by better aligning grades to duties and responsibilities	-30,000		-30,000	
<b>MUSEUMS</b>	Close a large Museum and a smaller town Museum	-110,000	20,000	-90,000	Close four smaller town Museums	-80,000	20,000	-60,000	The decisions on which Museums are considered for closure will be based on use statistics (visitor numbers) and financial efficiency (income generated on site). NB When a site is closed the Council still retains the responsibility for the care of collections. Some of the museums that could close are also iconic buildings that could then become at risk.
<b>COMMUNITY CENTRES</b>	Close one large Community Centre	-45,000	15,000	-30,000	Close three smaller Community Centres	-66,000	27,000	-39,000	The decisions on which Community Centres are considered for closure will be based primarily on use [occupancy rates].
<b>HERITAGE HUB</b>	Reduce Opening Hours by 17%	-10,000		-10,000	Reduce Opening Hours by 17%	-10,000		-10,000	The Heritage Hub is the Archive and Local History Centre for the Scottish Borders. It was built, not just to provide the proper management and care of Council records and historical archives, but, equally importantly, as a 'treasury' local residents and visitors to the region to find out about their own family history and the history and heritage of the region. Reducing opening hours will undermine the Hub's role in driving the benefit of ancestral tourism across the whole region.
<b>ARTS DEVELOPMENT</b>	Pro-rata budget reduction	-20,000		-20,000	Pro-rata budget reduction	-20,000		-20,000	For every £1 the Service spends, it brings £2 to the Scottish Borders in external funding. A loss of £20,000 will compromise the Service's capacity to deliver that return on investment, and mean that some key areas of work will be lost.
<b>HEART OF HAWICK</b>	Pro-rata budget reduction	-10,000		-10,000	Pro-rata budget reduction	-10,000		-10,000	The Heart of Hawick delivers a huge economic impact – each year adding £3m+ to the local economy and safeguarding 50+ jobs. A further £10k budget reduction on top of a 10% saving made in 2011/12 will significantly reduce the Heart of Hawick's capacity to support local business.
<b>MANAGEMENT</b>	Central management and administration	-60,000		-60,000	Central management and administration	-60,000		-60,000	
	<b>TOTAL</b>	<b>-430,000</b>	<b>79,000</b>	<b>-351,000</b>	<b>TOTAL</b>	<b>-438,000</b>	<b>91,000</b>	<b>-347,000</b>	

## OTHER ADDITIONAL PRESSURES

1. A Community Asset Transfer savings target of £70k, set in the 2012/13 budget round, will be achieved through the transfer of assets excluded from the above calculations and further savings of £100k from the closure of Halls and Community Centres will need to be identified from assets in scope in 2016/17.

## OTHER OPTIONS AND CONSIDERED AND REJECTED

1. **The closure of a Service in its entirety.** Withdrawing, for example, the Arts Development Service would generate a single saving of £200k. However, even this severe an action would only produce one half of the required saving and would lose significant leverage of funds drawn into the Borders
2. **Ending support for the third/voluntary sector.**
3. **Partial closures.** Closing all Libraries and Museums one day per week would only save c£50k pa and closing all museums from November through to March would only save c £13k pa. This option was rejected because of the low level of savings it would generate and the significant impact it would have on other services, which would then have to pick up a disproportionate part of the savings target.

## IMPACT

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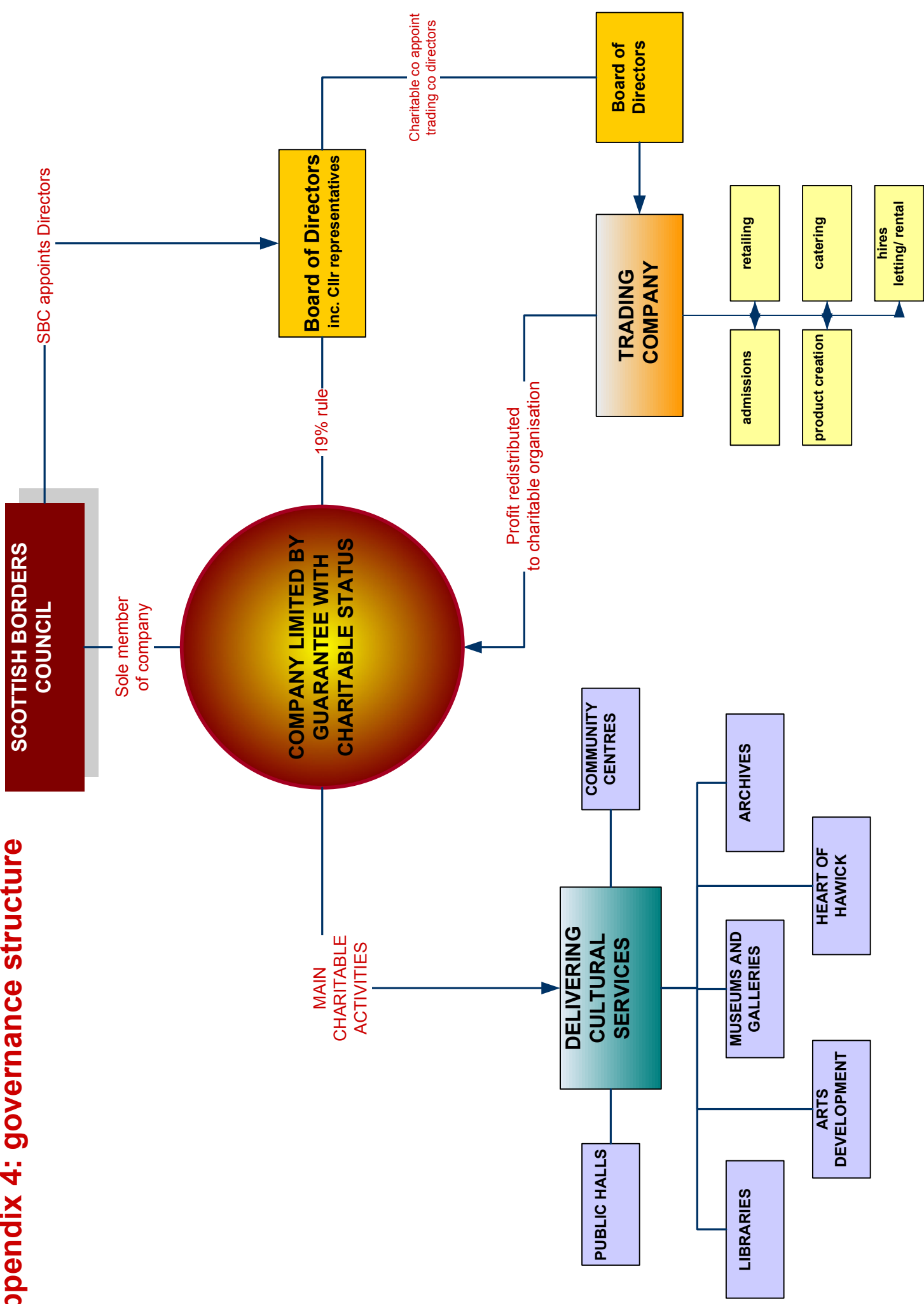
The current operating model for Cultural Services is local delivery from local sites, where each of the Services maintains a presence and contributes to the local economy and community and cultural life in each of the Scottish Borders network of small towns. With the scale of budget savings that the Services are tasked with making, site closures are inevitable. The closure options presented above propose, in general, either withdrawal from a hub facility or from three or more smaller facilities. Either action will disrupt the current broad coverage across the Borders of these Services. **Option 1 – withdrawing from a hub/large facility** – will risk the key Service activities that take place and are run from the hub – e.g. collections management and storage, education and outreach activity. **Option 2 – withdrawing to hub facilities** – will result in some smaller towns losing a substantial part of their provision – not just a library but possibly also a museum and/or public hall and/or community centre. To achieve the savings target, up to 13 facilities may have to be closed.

## METHODOLOGY AND ASSUMPTIONS

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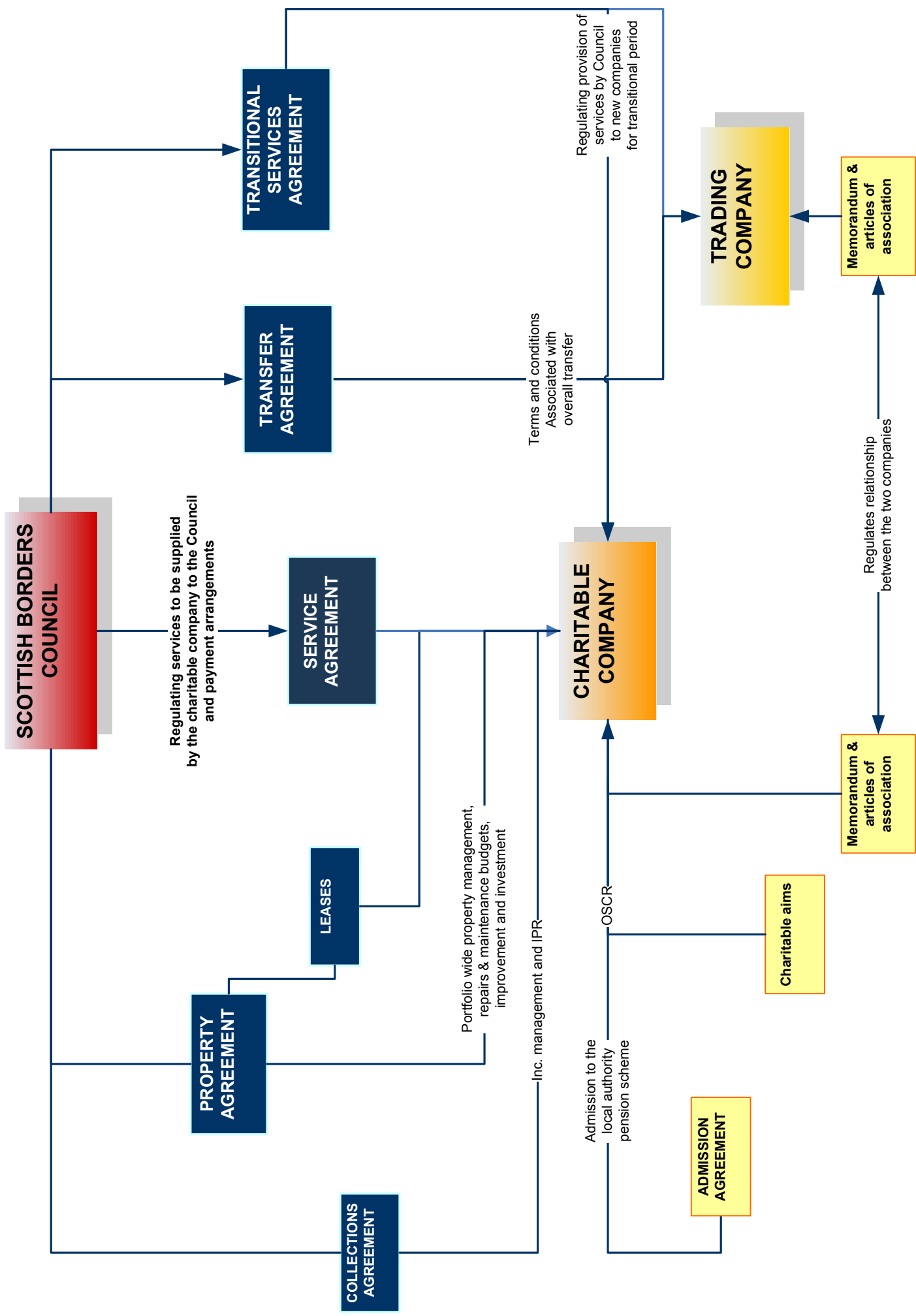
1. No redundancy costs have been included
2. Costs include Rates – three months free then 90% payable; therefore no reduction assumed and mothballing costs assumed at around 30% of rates bill. Rates and mothballing savings will become available as and when properties are sold/divested/ demolished
3. The facilities have been grouped into categories and using financial year 12/13 as a baseline, the average net expenditure for the facilities in each of these categories has been calculated and that figure used to estimate the saving delivered from closure.
  - **Halls:** The larger Civic Halls are Kelso Tait Hall, Hawick Town Hall, Selkirk Victoria Halls and Galashiels Volunteer Hall. The Town Halls are the Ormiston Institute/Corn Exchange [Melrose], and Old Gala House (shared with the Museum Service). The smaller Town Halls are Stow, Lauder, Graham Institute West Linton and Rodger Hall/Town Hall Coldstream. Out of scope are : Burgh Hall, Chambers Institute Peebles because it is part of the Chambers Trust , Jedburgh Town Hall, Volunteer Hall Duns and Memorial Hall Innerleithen because there is active local interest in their transfer to community management; Newlands Hall as it is already mothballed.
  - **Libraries:** The Hub Libraries are Galashiels, Hawick and Peebles. The smaller branch libraries are Selkirk, Eyemouth and Melrose. Out of scope are the integrated Library/Contact Centres (Duns, Jedburgh, Innerleithen, Kelso and Coldstream) and Earlston Library which is housed in the High School because it is integrated into the everyday life and operation of the school.
  - **Museums:** Because of its operating budget only Borders Textile Towerhouse and Harestanes Countryside Visitor Centre are in scope as a large museum. Tweeddale Museum in Peebles is of a similar size and operates as an area hub but has been included in the smaller town class because its operating cost are comparable with this group The other smaller town museums are Mary Queen of Scot's House and the Castle Jail, Jedburgh, Old Gala House (shared with Halls), St Ronan's Wells, Innerleithen, Coldstream Museum, Halliwell's House, Selkirk. Out of scope are Hawick Museum, Jim Clark Room and Sir Walter Scott's Courtroom because they are the subject of current or future substantial investment funding bids
  - **Community Centres:** The large Community Centres are Abbey Row Kelso, the Drill Hall Peebles, Eyemouth and Southfield, Duns. The smaller Community Centres are the Argus Centre Selkirk, the Focus Centre Galashiels, Newcastleton No 8 centre, Newtown and Tweedbank. Out of scope are: the Community Centres integrated with schools (St Ronans, Coldstream, Philiphaugh and Burnfoot). Langlee Community Centre and Langlee Complex are excluded as they are an important provision in an area of deprivation. Chirnside is also out because it is the subject of an active bid to bring it into community management.

# appendix 4: governance structure

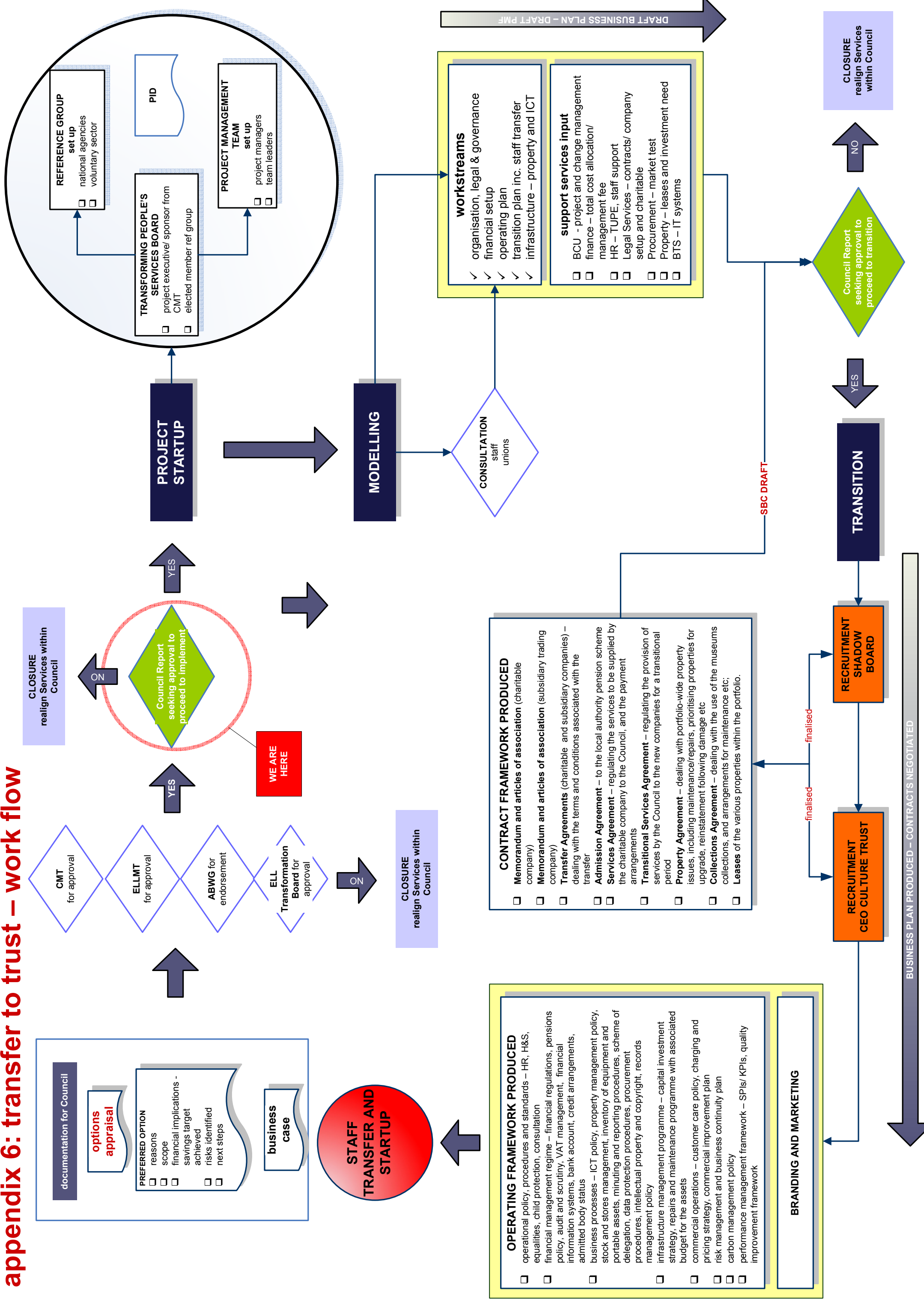




# appendix 5: contract framework



# appendix 6: transfer to trust – work flow



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## **SELKIRK FLOOD PROTECTION SCHEME 2012**

**Report by Director of Environment & Infrastructure**

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### **SCOTTISH BORDERS COUNCIL**

**27 February 2014**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report is to present an update on progress of the Selkirk Flood Protection Scheme (the Scheme) further to submission of an Application for Funding to the Scottish Government in January 2014. It is also to request delegate authority to commence project's Stage 7 (Construction Stage Procurement) and Stage 8 (Construction Works) without further recourse to Council for approval upon receipt of grant funding confirmation.**
- 1.2 The Scheme will provide 595 properties, including approx. 120 businesses, in Selkirk with a very high level of flood protection. With this Scheme the Council now has a major engineering project that is fully approved, fully designed and ready to commence the delivery stages. The Scheme was approved by Council in June 2012. It has since developed the detail design (project Stage 6). The project must now commence Stage's 7 and 8 and requires Council authority to do so.
- 1.3 The Scheme submitted an Application for Capital Grant Funding (Application for Funding) in January 2014 further to an invitation from the Scottish Government in December 2013. This funding is for 80% of the Total Scheme Cost estimate of £31.4M. It is expected that confirmation on whether or not the application has been successful will be received by early March 2014.
- 1.4 Throughout 2013, and during Stage 6, the project team developed strategies to deal with the key aspect of project delivery. These strategies are now in place and include: Land & Compensation; Financial Management; Risk Management; Opportunity Management; Construction Procurement and Project Team Resourcing; amongst others.
- 1.5 A high-level review of the Scheme's Financial Management Strategy, by KPMG, reported that the Scheme has established a robust set of: project management; scheme design and approval adherence to regulations; financial management including cost estimation; and risk management procedures that adhere to the appropriate guidelines.
- 1.6 A full review of the Scheme's estimated Project Programme and Total Scheme Cost estimate was undertaken as part of the Application for Funding. The revised estimated Project Programme has only minor changes in the current revision. The revised Total Scheme Cost estimate has increased by £2.6M from £28.8M to £31.4M of which the Council portion is £0.413M.

- 1.7 With the completion of the Detail Design the project is now required to commence Stage 7 (Construction Stage Procurement), subject to funding. The Procurement Strategy will be approved by the Project Board in early March and all contracts required to deliver the Scheme through Stage 8 will then be procured in accordance with this strategy. This stage is programmed to commence in March 2014 and will be completed by October 2014.
- 1.8 Stage 8 (Construction Works) consists of a number of discrete contracts, namely: (1) The Advanced Works; (2) the Public Utility Diversions; and (3) the Main Works Contract. The Main Works Contract is disproportionately the single largest element of the Scheme. It is programmed to commence in late 2014 and expected to be completed by December 2016. The formal OJEU procurement process for this contract will commence in March 2014. The Advanced Works and Public Utility Diversions Contracts will undertake some works (e.g. an archaeology survey; moving a gas mains in Riverside Road etc.) that substantially reduce major risks to the project / Council when undertaken in advance of the Main Works Contract. Stage 8 is required to commence at this time in parallel to Stage 7, and subject to funding.
- 1.9 There are a number of major risks to the Scheme however the project team have developed a Risk Management Strategy and have allocated an estimated cost to each risk through the Project Risk Register. The main risk to the Scheme is that the Total Scheme Cost estimate included in the Application for Funding cannot be revised post Main Works Contract tender acceptance (approx. September 2014). KPMG identified this risk and the Scheme has mitigated the risk in accordance with their suggestions. A full review of the estimated Programme and Total Scheme Cost estimate and will undertaken once the tenders have been returned and this risk no longer exists.
- 1.10 Further to section 1.2: the Scheme is fully approved, fully designed, and ready to commence delivery and with the submission of the Application for Funding to the Scottish Government: the Council is on the cusp of having full funding confirmed for this project.

## **2 RECOMMENDATIONS**

### **2.1 It is recommended the Council:**

#### **(a) Acknowledges progress since the last report to Council:**

- **That the project has put in place bespoke strategies to deal with project delivery;**
- **The KPMG audit of the Financial Management Strategy;**
- **That an Application for Capital Grant Funding was submitted to the Scottish Government on 21 January 2014 for 80% of the Total Scheme Cost estimate; and**
- **That the revised estimated Project Programme, Total Scheme Cost estimate and associated spend profile was included in the application.**

#### **(b) Delegates authority to the Director of Environment & Infrastructure to commence Stage 7 (Construction Stage Procurement) and Stage 8 (Construction Works) of the Scheme in accordance with the Project Programme and subject to funding confirmation by the Scottish Government.**

### **3 BACKGROUND**

- 3.1 In June 2010 after considering the revised *Strategy for Implementation of Flood Protection Schemes* the Council approved Selkirk Flood Protection Scheme (the Scheme) to be advanced to the end of Stage 5 (termed "Order Stage" at the time and since more correctly termed the "Statutory Approvals Stage") and that thereafter the project be progressed in discrete elements within the funding available.
- 3.2 The Scheme was approved by the Council in June 2012 under the Flood Risk Management (Scotland) Act 2009 (the FRM Act). It then became operative under the FRM Act in August 2012 and was granted its Deemed Planning Permission by the Scottish Ministers in October 2012.
- 3.3 The Scheme will provide 595 properties in Selkirk with a very high level of flood protection. This includes approx. 120 businesses employing over 1,500 people. It also includes critical infrastructure including: the A7; the Sewage Treatment Works; an Electricity Sub-Station; Philiphaugh Community School; and Selkirk Rugby Club. It will also reduce flood risk along the length of the Yarrow Valley and to the community at Lindean downstream of Selkirk through the St. Mary's Loch Flood Storage Option.
- 3.4 The Scheme's Project Board provided authority to commence project Stage 6 (the Detail Design) in December 2012 based upon approvals provided to the Project Board by Council in March 2012. This stage was initiated by Project Board further to completion of the approvals processes and their approval of the Stage 6 Plan.
- 3.5 The Detail Design involves developing the detail of the outline design that was completed for the approvals processes. It also involves securing agreements with landowners regarding land occupation / access, and preparing draft construction plans. The output from this stage is the documentation / detail that can be provided to contractors for pricing through the tendering processes (project Stage 7 – Construction Stage Procurement). The detail design is currently on programme to be completed in February 2014.
- 3.6 During Stage 6 the project team developed strategies that mapped out how the project would advance and deliver the Scheme through to the completion of the Construction Works in December 2016. The development of these strategies was regularly reviewed by, and ultimately approved by, the Project Board. Section 5 provides further detail on the strategies.
- 3.7 With the completion of Stage 6 (the Detail Design) the Council now has a project that is fully approved, fully designed and ready to commence the delivery stages. With the submission of an Application for Funding to the Scottish Government (as detailed in section 4) the Council is on the cusp of having full funding confirmed for this project.
- 3.8 Further to section 3.1, the Scheme does not however currently have delegated authority from Council to commence the project's Stage 7 or Stage 8. It is now required to commence and advance Stage 7 and Stage 8, without further recourse to Council subject to confirmation of Scheme funding from the Scottish Government and acceptable tender prices, so that the project can maintain progress to the approved Project Programme.

## **4 APPLICATION FOR FUNDING**

- 4.1 An invitation to submit an Application for Capital Grant Funding (Application for Funding) for 80% funding for eligible flood protection schemes was distributed by the Scottish Government to Local Authorities in December 2013. This invitation had been widely expected, and the associated guidelines that defined the criteria for eligibility and the information that must be submitted were in accordance with expectation. The letter of invitation and the associated guidelines are included in Appendix A. The Scheme meets all of the eligibility criteria and is considered by the project team to have a high probability of successfully receiving the funding it requires to deliver the project.
- 4.2 Notwithstanding the fact that the guidelines contained within the invitation are as per expectations, there is one Funding Criteria within the guidelines that is new and a significant risk to the Council. This confirms that funding will be provided, not greater than 80% of the value stated in the application, only on actual costs incurred, and regardless of whether the project costs increase. This effectively caps the Scottish Government's financial exposure to the Council at 80% and leaves all residual risk of a cost overrun with the Council. This risk was also identified in the KPMG Report on Financial Management and is further discussed within section 6.2 and section 10.2.
- 4.3 The project team has been on standby to submit an Application for Funding for over 12 months. Furthermore, the project team were aware from the lesson learned by the Galashiels Flood Prevention Scheme in December 2011 that the Scottish Government has previously issued such invitations with very challenging preparation timescales. The project team, therefore, set up defined processes through which an application would be prepared in late 2012 and undertook as much as the preparation work as was possible throughout 2013.
- 4.4 Further to section 3.5, it is noted that the Detail Design was not completed when the Application for Funding was submitted. Furthermore, the Scheme does not receive actual tender prices until approx. July / August 2014. Any estimate of Total Scheme Cost before actual tender prices are received, and accepted, will therefore be based on the latest best estimate only. Such an estimate will always be subject to the risk that such an estimate could be incorrect. The project team believe that they have done everything within their abilities to define these risks and include them within the Scheme's monetised Project Risk Register. This is further detailed in section 7 and section 10.1.
- 4.5 When the invitation to submit an Application for Funding was received on the project team initiated the processes that had been set-up. Initially this involved a number of external organisations revising Scheme productions e.g. the District Valuer required to revise the Land & Compensation estimate. These external documents were all returned over the Christmas break and the project team commenced the revision of the Scheme's estimate Project Programme, Total Scheme Cost estimate, and associated Spend Profile on Monday 6 January 2014.
- 4.6 The revised Scheme documents were presented to the Scheme's Project Board for review and approval on Monday 13 January 2014 and Department Management Team (with the Chief Financial Officer in attendance) on Wednesday 15 January 2014. These revised Scheme documents contain the data from which the Application for Funding was

drafted. A summary of the revised Scheme documents is included in section 7.

- 4.7 It is expected that the Scottish Government will confirm whether or not the Application for Funding has been successful by early March 2014.

## **5 DEVELOPMENT OF THE STAGE 6 STRATEGIES**

5.1 The Scheme identified through the Stage 6 Plan that it would develop bespoke strategies to manage the delivery of the project. This was felt to be appropriate given the scale of the project within the context of the Council's Capital Plan and as the first flood protection scheme to be advanced under the new FRM Act. The main strategies are:

- (a) Land & Compensation;
- (b) Opportunity Management;
- (c) Financial Management;
- (d) Risk Management;
- (e) Construction Procurement;
- (f) Project Team Resourcing Strategy; and
- (g) Asset Management.

5.2 The Financial Management Strategy covers all aspects of financial management associated with the Scheme. This includes development of the Total Scheme Cost estimate and funding of the Scheme. This strategy was developed in partnership with the Council's Finance Function. This report reviews the KPMG evaluation of the financial strategy in section 6.

5.3 Within the Risk Management Strategy the project team completed a significant body of work to understand and quantify in financial terms the risks associated with the Scheme. This is to ensure that the project team is capable of minimising the future risk to the Scheme / Council. The approach was reviewed by KPMG and this is covered in section 6.

5.4 The Construction Procurement Strategy is currently being finalised and is on programme to be completed by early March 2014. This will cover all aspects of the procurement process during project delivery and is being developed in partnership with the Council's Procurement Service. It is noted that the intention is to deliver the Main Construction Works through one large contract.

5.5 The Land & Compensation Strategy covers the Scheme's requirements to access and use land and the associated compensation that may be claimed by land owners in accordance with the FRM Act. The "Purpose" and "Summary" sections of the Land & Compensation Strategy report are provided in Appendix B. This strategy was developed in partnership with the Council's Estates Section and the District Valuer.

5.6 It is noted that the Asset Management Strategy is not required to be completed until the end of the Construction Work in approx. December 2016. The project team have however commenced developing this strategy and will continue to liaise with the Council's Flood Officer and Asset Management Section over the coming years in finalising this strategy.

## **6 REVIEW OF SCHEME FINANCIAL MANAGEMENT BY KPMG**

- 6.1 The Scheme engaged KPMG to undertake a high-level review of the Scheme's financial management structures in November 2013. This was primarily in recognition of the very large cost of this complex engineering project and such that the Project Board could be satisfied that all possible efforts had been undertaken in ensuring the robustness of the Total Scheme Cost estimate.
- 6.2 KPMG submitted their report to the project team in January 2014 and the Executive Summary is included in Appendix C. In summary:
- (a) In their opinion, and based on the information provided, the Scheme have established a robust set of project management, Scheme design and approval, financial management and risk management procedures that adhere to the appropriate guidelines and best practices;
  - (b) That, specifically the procedures comply with the recommendations of HM Treasury's Green Book for complex projects;
  - (c) That in having appropriate procedures the Scheme can be assumed to have undertaken everything possible to ensure that the Scheme and its Total Scheme Cost estimate are as accurate and robust as possible; and
  - (d) That there is one risk that at the time of preparing their report the project team had not appropriately dealt with. This is the risk identified in section 4.2 and detailed further in section 10.2
- 6.3 It should be noted that the KPMG report does not confirm that the Scheme's Total Scheme Cost estimate, or any cost within it, is correct; merely that the Scheme has followed guidelines and best practices in developing the estimate.

## **7 REVISED PROJECT PROGRAMME AND TOTAL SCHEME COST**

### **7.1 The revised estimated Project Programme:**

A schematic of the Scheme's revised estimated Project Programme is included in Appendix D. In summary:

- (a) There were no changes of substance to the programme during the revisions that the project team undertook in January 2014, indeed this estimated programme has effectively been in place for over 12 months now;
- (b) The project is on programme to complete Stage 6 (Detail Design) in February 2014;
- (c) The project team are comfortable that the estimated timescale for Stage 7 (Construction Stage Procurement) remains accurate and that the project will be in a position to award the Main Construction Contract towards the end of 2014; and
- (d) The project team note that Stage 8 (Construction Works) has been estimated at 26 months. This is considered to be a robust estimate of the time required to construct the Scheme. Once the tenders are returned during the summer of 2014 the project team will be in possession of the proposed construction programme of the successful tenderer / contractor. It will then be possible to revise this programme and to be definitive about the likely construction completion date. Until that point this programme is only a latest best estimate regardless of how accurate the project team believes it to be.



7.2 The revised Total Scheme Cost estimate:

The Total Scheme Cost estimate within the Capital Financial Plan 2014/15 until 2023/24 is £28.8M. This estimate was developed by the project team in June 2013. This estimate was also reported to the Scottish Government / COSLA / SCOTS, further to a request for an update from them. They were trying to determine the process for the current round of funding applications at that time. It is noted that all of those organisations were entirely satisfied with that cost estimate at that time.

7.3 **The Total Scheme Cost estimate presented in this report is £31.4M. This is an increase of £2.6M to the June 2013 estimate of £28.8M.** Within this £2.6M the Council will have to fund an additional £0.473M. This is further detailed in section 10.1 (b).

7.4 On 1 April 2014, when Scottish Government Capital Grant Funding should commence, the Council will have incurred approx. £1.9M in costs. The risk associated with incurring these costs before Scottish Government funding is confirmed is detailed in section 10.1 (h). It is noted:

- (a) A Scheme must be approved to be eligible to apply of Capital Grant Funding;
- (b) When the Scheme was approved it had incurred approx. £1.2M;
- (c) Over the past year, during detail design, an additional approx. £0.7M has been incurred. These costs were incurred to ensure the design within the Application for Funding was as robust as possible thereby minimising the risk to the Council that the Scottish Government will not revisit the Total Scheme Cost estimate as detailed in section 4.2 and 10.2; and
- (d) The advancement of the project, and thereby the incurring of these costs was undertaken in stages with Council being consulted and approving each step forward.

7.5 The Total Scheme Cost estimate is the sum of the costs estimated within four discrete categories, namely:

- (a) The Works Cost estimate;
- (b) The Land & Compensation Cost estimate;
- (c) The Client Risk Register estimate; and
- (d) The Design & Supervision Cost estimate (i.e. all other costs).

7.6 The revised Total Scheme Cost estimate has increased by £2.6M as detailed in section 7.3. The breakdown of this increase is as follows:

- (a) The Works Cost estimate → increased by £0.3M.
- (b) The Land & Compensation Cost estimate → increased by £0.5M.
- (c) The Client Risk Register estimate → increased by £1.3M.
- (d) The Design & Supervision Cost estimate → increased by £0.5M (this includes approx. £0.11M of additional eligible historic costs incurred between 2004 and 2009) and as identified in section 10.1 (b).

7.7 The Works Cost estimate account for the vast proportion of the Total Scheme Costs. The following points are noted:

- (a) This estimate has been robustly produced by the project's Design Consultant, CH2M Hill (formerly Halcrow Group Limited). The estimate has been reviewed: internally by specialists in CH2M Hill;

by the Council's SBcContracts; partially by an external contractor engaged to spot check some of the more complex / costly aspects of the design; and by the Council's Project Manager. It has also been subjected to a high-level process review by KPMG as detailed in section 6; and

- (b) The Works Cost estimate is however an estimate. It is an early pre-tender estimate developed before the Detail Design is fully completed. This is not ideal but was necessary due to the timescales of the Scottish Government invitation to submit an Application for Funding. Once the tenders are returned during the summer of 2014 the project team will be in possession of the proposed construction costs of the successful tenderer / contractor. It will then be possible to be definitive about the likely construction out-turn cost.

#### 7.8 The revised Spend Profile:

The revised Spend Profile associated with the revision to the Total Scheme Cost estimate has been updated to present the most realistic requirement for funding between now and the completion of the Scheme in December 2016. Completeness of the cost estimate is essential as there is only one opportunity to bid for Government funding under the revised application rules. There were no changes of substance the Spend Profile in the Capital Financial Plan 2014/15 until 2023/24.

- 7.9 The estimated Project Programme, Total Scheme Cost estimate and associated Spend Profile will be revised when a tender has been accepted and a Main Works Contractor has been appointed in the autumn of 2014. At that point when tendered costs are finally known any revisions will be incorporated into the Project Business Case and thereby into the Council's Capital Financial Plan.

## **8 PROJECT STAGE 7 (CONSTRUCTION STAGE PROCUREMENT)**

- 8.1 The project has been managed through a PRINCE2 Project Management System from the beginning. In accordance with this system the design and delivery of the flood protection scheme was set-up to be advanced through eight discrete stages. These stages are highlighted within the Schematic Project Programme which can be referenced in Appendix D.
- 8.2 The project is currently on programme to complete Stage 6 (the Detail Design) in February 2014. The next stage is Stage 7 (Construction Stage Procurement) and the approved Project Programme requires this to commence immediately.
- 8.3 The project team are currently completing the Construction Procurement Strategy. This will be completed in early March and Stage 7 will then be advanced in accordance with this strategy and subject to funding being in place. It is noted that confirmation of the Capital Grant Funding from the Scottish Government is expected by early March 2014 but that until this is confirmed the Scheme is not fully funded. The project team recognise that no activity can commence that does not have funding in place. In general this means that many internal and low cost activities in Stage 7 can be commenced immediately but that the big cost activity to commence the Main Works Contract procurement cannot be commenced until the funding is confirmed.

- 8.4 The main activities / milestones within Stage 7 are all relating to the Main Works Contract and are:
- (a) Lodge OJEU Notice → March 2014.
  - (b) Issue the Invitation to Tenders (ITT) → May 2014.
  - (c) Award the Main Works Contract → October 2014.
- 8.5 The other main activities / milestones within Stage 7 are:
- (a) Procure Archaeology Survey → February & March 2014.
  - (b) Procure Advanced Works Contract → March until August 2014.
  - (c) Procure Public Utilities Contracts → March until May 2014.
  - (d) Any other procurement matters defined in the Procurement Strategy.
- 8.6 There are some additional risks to the Council associated with Stage 7. These are dealt with in section 10.2.

## **9 PROJECT STAGE 8 (CONSTRUCTION WORKS)**

- 9.1 Stage 8 (Construction Works) can be broken down into the following activities / contracts:
- (a) Advanced Works;
  - (b) Public Utility Diversions; and
  - (c) The Main Works Contract.
- 9.2 All Construction Works Contracts will be procured in accordance with the approved Construction Procurement Strategy as detailed in section 8.3.
- 9.3 The estimated Project Programme relating to Construction Works is currently the latest best estimate, as detailed in section 7.1, and will be fully updated at the completion of procurement. The following is a summary of the current estimated delivery timescales:
- (a) Advanced Works → March 2014 until August 2014.
  - (b) Public Utility Diversions → April 2014 until November 2014.
  - (c) The Main Works Contract → November 2014 until December 2016.
- 9.4 There are some additional risks to the Council associated with Stage 7. These are dealt with in section 10.2.

## **10 IMPLICATIONS**

### **10.1 Financial**

- (a) The revised Total Scheme Cost estimate of £31.4M has been generated to submit an Application for Funding to the Scottish Government for 80% funding. The estimate is considered to be robust enough to ensure that there is no further increase in cost to the Total Scheme Cost estimate. This approach is designed to protect the Council as the Total Scheme Cost estimate in the application will be at an 80% / 20% Scottish Government / Council split whereas any increase must be borne 100% by the Council. The project team has dealt with this risk through the developing of a robust estimate and the inclusion of Tender's Risk, Optimism Bias and Client Risk. This is further detailed in section 10.2.

- (b) The Total Scheme Cost funding assuming 80% grant funding within the Capital Financial Plan 2014/15 until 2023/24 is £28.8M. The final estimate in this report is £31.4M which is an increase of £2.6M. This increase results in a specific as yet unbudgeted potential cost increase of £0.413M for the Council and as such is a risk to the 10-Year Capital Plan. This is less than the 20% required of the funding arrangements 80% / 20% split (£0.52M). The reason for this is that of the £2.6M increase £0.11M is for 'eligible' Scheme preparation costs incurred between 2004 and 2009 that were not previously included in the Total Scheme Cost estimate. These costs were identified by a SBC Finance & project team investigation during 2013; these costs have already been 100% incurred; and the Council will receive 80% of these costs back once funding is secured.
- (c) It is noted that £0.473M of the £31.4M in the Total Scheme Cost estimate is for a specific Scheme Operation to undertake strengthening works to the Bridge Street Footbridge, Selkirk. This work is now superseded by a Council project to replace the footbridge. The Scheme will be able to transfer the £0.473k to the Council which can go towards funding the Bridge Street Footbridge Replacement project. This project is currently estimated at approx. £0.879M. The initial design of this project is currently underway and the project team are considering whether or not the project can be delivered within the Scheme's Main Works Contract to deliver best value to the Council.
- (d) It is noted that the project will also be provided with a Lump Sum currently estimated, by the project team, at £0.229M from Scottish Water. This is part of a complex deal with Scottish Water but is essentially due to Scottish Water transferring some responsibilities they currently hold relating to St. Mary's Loch to the Council.
- (e) It is noted that the Council intend to collect Developer Contributions from new residential developments in areas of Selkirk that have specifically benefited from the Scheme. It is understood that the application of these contributions can come into effect on the date the Scheme is confirmed as funded i.e. the date the Scottish Government confirm they will 80% fund the Scheme. This is estimated to be approx. early-March 2014.
- (f) It is noted that the project team are still engaged in discussions with SEPA about the possibility of obtaining some River Restoration Funding towards the Scheme's delivery. The Project Team consider there is a high probability of obtaining some funding during 2014.
- (g) Should the Scheme not attract government support it would not be able to proceed within the approved Council budgets and a portion or all of the £1.9M cost incurred to date would have to be written off. It is assumed that in such a situation some elements of the Scheme cost be advanced within a revised and substantially de-scoped Project Programme. Assuming however that the Application for Funding is confirmed the Council will be able to recover 80% of these costs from Scottish Government. See section 7.4 for further detail.
- (h) In the event that Scheme does not obtain 80% funding from the Scottish Government then the project will not be able to continue to advance its approved Project Programme after approx. March / April 2014.

## 10.2 Risk and Mitigations

- (a) The biggest current risk to the Scheme is associated with the estimate submitted to the Scottish Government in response to their invitation to submit an Application for Funding. This risk was identified in section 4.2 and 6.2.

The risk is:

That the Council submitted an estimate of the Scheme's Total Scheme Cost within the Application for Funding: that this is before actual tender prices are obtained and further that no revision of the Scheme's Total Scheme Cost estimate will be allowed.

The implications of the risk are:

That in the event that the project team have under-estimated the Total Scheme Cost estimate and that the project cost increases above the estimated value either during the tendering process or during the construction stage then that additional cost will have to be borne 100% by the Council. The Scottish Government will only grant fund 80% of the Total Scheme Cost estimate to a cap level equal to that stated in the application.

The mitigating measures against the risk are:

- (i) That this new Council risk is carried by the Scheme and included in the monetised Project Risk Register, as opposed to a higher level Council Risk Register;
  - (ii) That the risk is specifically mitigated by ensuring the Scheme's Financial Management Strategy is as robust as possible. This action is complete as the Project Board assumed this risk would develop and proactively engaged KPMG to undertake a review of the Financial Management Structures: see section 5;
  - (iii) That the risk is further specifically mitigated by estimating the possible financial implications and including them in the monetised Project Risk Register. This action was completed during the Project Board Meeting on Monday 13 January 2014. The risk was estimated at £1M with a 33% probability therefore the actual new financial estimate included within the Total Scheme Cost estimate is £330k; and
  - (iv) That throughout the rest of the Total Scheme Cost estimate, and only where appropriate, that the project team err on the side of the conservative where there is a possibility that tender or construction prices might see an increase to the Total Scheme Cost estimate.
- (b) There is a significant risk that if substantial financial support cannot be obtained from the Scottish Government when required that the Scheme may not go ahead and that the capital costs incurred will need to be transferred to the revenue budget.

The mitigating measures against the risk are:

- (i) This risk was mitigated by submitting an Application for Funding when offered the opportunity to do so by the Scottish Government; and
  - (ii) It is not considered that there is currently any further mitigation that can undertake in relation to this risk.
- (c) The Total Scheme Cost estimate and associated Spend Profile have been developed based on the estimated Project Programme. There is a risk, which the project team has included in the monetised

Project Risk Register that an extension to the programme could lead to increased costs in the Total Scheme Cost estimate. Conversely, it must be noted that in the event that the programme can be shortened: there is an opportunity that it could lead to reduced costs in the Total Scheme Cost estimate.

The mitigating measures against the risk are:

- (i) That the estimated Project Programme is as robust as possible and includes for delays that will most lightly arise during the construction process;
  - (ii) That strategies have been put in place to deal with the key aspects of project delivery and therefore have clarity as to how to advance the project through Stage 7 & Stage 8; and
  - (iii) That the project team are currently advancing the critical path activities on the Project Programme and within the strategies to ensure that this risk to the Council is minimised. This includes advancing some activities so that they occur earlier than originally intended (in accordance with the approval of Capital Management Group from October 2013) i.e.: the public utility diversions; the archaeological survey work; and recruitment of staff for the project team.
- (d) The Scheme is currently required to proceed with delivering a number of Stage 8 Contracts (Advanced Works and Public Utility Diversions) before the tendering process for the Main Works Contract has concluded. There is a risk of unnecessary or abortive works in the event that these "Advanced Works" are ultimately deemed to be unnecessary by the successful contractor.

The implications of the risk are:

It is considered that the implications of this risk are predominantly financial in that the project would have incurred costs that were ultimately deemed to be unnecessary. The project team are however advancing these Advanced Works and pre-Main Works Contract Public Utility Diversions as it has been determined that this is the best way to reduced bigger project risks (i.e. relating to unidentified public utilities; unidentified Archaeological discoveries; delay to the Main Works Contractors Programme etc.) It is considered therefore that the implications of this risk are outweighed by the mitigation that such activities deliver to these greater project risks.

The mitigating measures against the risk are:

- (i) The project team have considered in detail when each public utility is best dealt with. The Public Utility Works have been split into two categories (1) those that can be diverted through an advanced works contract; and (2) those that are better dealt with during the Main Works Contract; and
- (ii) The project team have considered each proposed piece of work to ensure that the works undertaken would be deemed sufficient and acceptable by any future Main Works Contractor. This was one of the reasons that a contractor was consulted during 2013 on some of the more technically complex construction activities proposed by the Scheme.

- 10.3 **Equalities**  
The Scheme has been designed over the past four and a half years and has considered equalities implications throughout. There are currently no known equalities implications associated with this report.
- 10.4 **Acting Sustainably**  
The Scheme has been designed over the past four and a half years and has considered sustainability implication throughout. There are currently no known sustainability implications associated with this report.
- 10.5 **Carbon Management**  
The Scheme has been designed over the past four and a half years and has considered carbon management implication throughout. There are currently no known carbon implications associated with this report.
- 10.6 **Rural Proofing**  
N/A.
- 10.7 **Changes to Scheme of Administration or Scheme of Delegation**  
N/A.

## **11 CONSULTATION**

- 11.1 The Scheme was developed within an ongoing framework of consultation with key project stakeholders, Council Officers and the people of Selkirk.
- 11.2 The Scheme was approved under the FRM Act and its associated regulations. This included a formal objections period in February / March 2012, and a separate formal period for appeals in July / August 2012. Both of these periods followed formal notification of the Scheme. The Scheme itself was approved by the Council in June 2012.
- 11.3 The project team consulted the Scottish Government's Flooding Policy Team regularly throughout the design of Scheme. This was particularly useful as the Scheme was the first scheme approved under the new FRM Act. The Scottish Government officers have been satisfied with the Scheme and its objectives throughout and any issues identified by them were dealt with as they arose.
- 11.4 The revision of the Scheme's estimated Project Programme and Total Scheme Cost estimate in advance of the submission of the Application for Funding was undertaken through a process that included the Scheme's partners in the Finance and Estates Departments. It also involved external organisations like the District Valuer and KPMG. The draft revised documents were reviewed by the Project Manager, Project Board, and Department Management Team (DMT) before the application was approved by DMT including the Directors of E&I and Finance.
- 11.5 The Chief Financial Officer, the Head of Corporate Governance, the Head of Audit and Risk, Clerk to the Council, Head of Strategic Policy, HR Manager, Procurement and Corporate Communications have been consulted and their comments have been incorporated into the report.

**Approved by:**

**Director of Environment & Infrastructure**

**Signature.....**

Name	Designation and Contact Number
Steven Renwick	Selkirk FPS – Project Executive – 01835 826687
Conor Price	Selkirk FPS - Project Manager – 01835 826765

**Background Papers:** None

**Previous Minute Reference:** Scottish Borders Council, 21 June 2012

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Environment and Infrastructure, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email [eitranslationrequest@scotborders.gov.uk](mailto:eitranslationrequest@scotborders.gov.uk).



# **APPENDIX A**

**FROM THE SCOTTISH GOVERNMENT:**

**LETTER OF INVITATION TO SUBMIT AN  
APPLICATION FOR FUNDING**

**&**

**ASSOCIATED GUIDELINES**





12 December 2013

Dear Colleagues

### **Distribution of the flooding component of the General Capital Grant for 2014-15 and 2015-16 - Guidance for Councils**

In December 2011 we wrote to Councils inviting applications for funding of large flooding projects. At that time applications were restricted to those projects which had been granted approval and had the necessary planning permission as part of the Flood Prevention (Scotland) Act 1961. We advised that further guidance would be issued in due course to allow Councils to apply for any remaining balance of funding after applications from round one had been assessed and awards of funding made.

This approach to the funding of large flooding projects was for the period 2012-2015 (SR2011).

The Scottish Government and COSLA have agreed that this approach to funding large flooding projects is to be extended to include the financial year 2015-16.

We are now inviting applications for the funding of large, new, flooding projects which are to be funded from the remaining 2014-15 component and the 2015-16 component. Eligible schemes include both 1961 Act schemes plus any new flood protection schemes which have been approved and have the necessary planning consent as outlined in the Flood Risk Management (Scotland) Act 2009. Full details on project priority and eligibility can be found in the joint guidance for local authorities, which has been updated and revised. This sets out the process for applying for this component of the grant, the information which must be provided, the eligibility criteria, the assessment process and the payment process. The guidance accompanies this letter.

Local authorities seeking funding will be required to make an application and provide the information required as set out in the guidance.



Local authorities should return individual applications which meet the criteria to the Scottish Government Flooding Team by 21 January 2014. Contact details are set out in the guidance.

I should be grateful if you would disseminate this information to your Director of Finance and other relevant staff in your authority.

Yours faithfully,



**W. George Burgess**  
**Deputy Director, Environmental Quality**  
**Scottish Government.**

# **DISTRIBUTION OF THE FLOODING COMPONENT OF THE GENERAL CAPITAL GRANT FOR 2014-15 AND 2015-16**

## **GUIDANCE FOR COUNCILS**

### **Background**

1. As part of the 2008 Local Government settlement (SR2008) a number of former specific grants were rolled up and became part of the General Capital Grant paid to Councils. The flood prevention and coast protection capital grant was a specific grant which was rolled up. This specific grant was previously paid out to councils for agreed projects, the payments being made as expenditure was incurred over a number of years. When the grant was rolled up it was agreed that the allocation of the flooding component of the General Capital Grant for SR2008 and future Spending Review periods for a 6 year period would be made first to known and agreed flooding schemes with any balance then distributed on a formula basis of properties at risk of flooding. From 2014-15 this approach would have led to the flooding component being allocated solely on a formula basis.

2. Feedback from a number of local authorities identified a number of issues on what this meant for councils wishing to undertake large flood projects. Concerns were raised on the frequency of projects, the “lumpiness” of the expenditure profile and the financial issues these large projects raised, particularly for smaller Councils.

### **Spending Review 2011**

3. As part of the SR2011 political discussions which covered the period 2012-2015, it was agreed that the distribution methodology for the flooding component of the General Capital Grant would change. The new distribution methodology was to allocate the flooding component only to large, new, flooding projects. This is based on an application process.

### **Budget 2015-16**

4. COSLA and Scottish Ministers have agreed that the same arrangement for the flooding component of the General Capital Grant should also apply for the financial year 2015/16.

5. This arrangement only applies to 2014-15 and 2015-16. The distribution methodology for future flooding projects after 2015-16 will form part of the discussions for the next Spending Review, and are likely to take account of the development of local flood risk management plans. This will support the statutory requirement for responsible authorities to agree funding of measures in the Local Flood Risk Management Plans.

6. This guidance sets out the process for applying for this grant, the information which must be provided, the eligibility criteria, the assessment process and the payment process.

### **Process**

7. Local authorities seeking funding from this General Capital Grant component will be expected to make an application for funding and provide the information as set out in this guidance. Applications will be considered by a panel consisting of

representation from: COSLA, Scottish Government and SCOTS Flood Risk Management Group. This group will make recommendations for grant allocation. These recommendations will be reviewed by an officer group which includes Directors of Finance before being recommended to COSLA and Scottish Ministers for approval.

8. The officer group will meet periodically as required. The officer group will review progress of projects, consider slippage/ projects ahead of schedule and ensure optimum resource allocation. It will also consider proposals for flood funding for future Spending Review periods..

9. The Scottish Environment Protection Agency (SEPA) may be asked to provide expertise as necessary. This will ensure there is consideration of potential benefits and a link to the Flood Risk Management Planning process is provided as appropriate. It is unlikely SEPA input will be required for the 1961 Act projects.

### **Eligibility Criteria**

10. The following criteria have been agreed by both COSLA and Scottish Government as an appropriate basis for project priority and eligibility for funding.

#### ***Project priority***

- I. In the first instance, priority is given to those schemes which have already been granted approval and necessary planning permission as part of the Flood Prevention (Scotland) Act 1961.
- II. Priority should then be given to any new flood protection schemes which have been granted appropriate statutory consent as outlined within the Flood Risk Management (Scotland) Act 2009.

#### ***For projects to be eligible***

- I. The scheme/project must be new and has not been awarded/ received funding under any previous arrangements for funding flood protection/prevention schemes.
- II. Schemes should be able to demonstrate a positive benefit cost ratio of greater than 1 and demonstrate project value for money.
- III. Applications should only be made where the main construction of the scheme is either ready to start or will start in 2014. The application will need to include evidence which demonstrates the certainty of starting the construction works following an award of a grant, including a robust timetable ;
- IV. Schemes should be able to demonstrate multiple benefits in a catchment area, e.g. water environment, asset management;
- V. Schemes should fit within a potentially vulnerable area as identified by the National Flood Risk Assessment.

### **Funding Criteria**

11. Grant funding will only be available to support large new flooding projects. The project threshold is set at £2 million.

12. The General Capital Grant conditions apply to applications made for funding of flood projects. In essence only capital expenditure costs will be eligible for grant

funding. Grant payments to third parties may be eligible if permitted by the General Capital Grant conditions.

13. Large flooding projects which meet the criteria will be eligible to receive grant funding of 80% of eligible capital costs. For clarity, any eligible costs already incurred by a council for a project can form part of the grant application and subsequent funding if the application is successful.

14. A funding allocation will be made taking account of actual eligible costs incurred to date plus estimated costs to complete the project as set out in the Council's application for grant funding. Councils may be asked to provide additional information on their cost estimates.

15. For the avoidance of doubt, funding allocations will not be revisited. Any cost increase after the grant award is made are the responsibility of the Council who will need to fund all additional costs i.e. 100% of any cost increase. However, to ensure that projects do not receive funding in excess of 80% of actual project costs grant allocations will be reduced if the cost of the scheme is lower than the estimate.

### **Information Requirements**

16. Demonstrate that the project will deliver a positive benefit – cost ratio of greater than 1 and demonstrate project value for money.

17. Provide information on the breakdown of project costs (as per the headings outlined below). This should specify the costs incurred to date (excluding any ineligible costs), expected future costs and an anticipated spending profile. Please include a commentary or evidence to support the cost estimates.

### **Headings for Project Cost Estimates (eligible costs only)**

- Scheme Preparation
- Construction Preparation
- Works
- Utilities
- Survey and Site Investigation
- Site Supervision/design office support and cost management
- Land/Compensation and fees (e.g., District Valuer)
- Client Risk
- Miscellaneous (advertising, CAR fees, publicity, community engagement, etc)

18. Confirmation that the appropriate statutory consents are in place and there is Ministerial confirmation where required. This will include a copy of the letter confirming the Ministerial approval of a 1961 Act scheme, and any evidence of statutory consents.

19. Demonstration of the benefits that will be delivered by the project. These should not be restricted to reduction in flood risk within the local authority area but should demonstrate wider catchment or national level benefits.

20. An outline programme to completion, setting out the various stages such as procurement, advance/enabling works, CAR licence, planning conditions, environmental licences, committee approvals, for example.

21. An expenditure profile to complement the above (graphical and tabular form).

### **Timing**

22. Councils should return individual applications which meet the criteria to the Scottish Government Flooding Team by **Tuesday 21 January 2014**.

23. Ideally, applications should be made electronically to Bob Bridges at bob.bridges@scotland.gsi.gov.uk or by post to Bob Bridges, Scottish Government, 1D North, Victoria Quay, Edinburgh EH6 6QQ.

24. Individual Councils will be notified of their allocation of funding as soon as possible following political agreement, with the expectation that any award of funding will be included within the appropriate Finance Circular.

### **Payments**

25. There is only a finite amount of grant available within the General Capital Grant to fund flood projects. Council will receive 80% grant on eligible expenditure for an approved project. However, based on the experience of the current funding of approved projects it may not be possible to pay grant at 80% of eligible expenditure as it is incurred. Alternatively, to ensure the funding component is fully spent each year it may be necessary to pay some grant in advance of actual expenditure. Recognising that a Council will wish to have some certainty as to when funding will be received we will include details of when grant payments will be made when an allocation is agreed.

26. To ensure projects do not receive funding in excess of 80% of actual project costs we will need a return from the Council each year setting out actual cumulative eligible expenditure incurred to the end of the financial year. The expenditure analysis should be broken down to reflect the project cost elements as set out in the original application. The return must advise whether the project is financially complete. This return is to be signed as a correct record by the section 95 officer of the Council. When a project is financially complete any overpayment of grant will be repaid by a Council as a reduction in the next years General Capital Grant.

Scottish Government  
December 2014



## **APPENDIX B**

### **SCHEME STAGE 6 REPORT LAND & COMPENSATION STRATEGY**

**(Report Purpose and Summary only)**



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## **SELKIRK FLOOD PROTECTION SCHEME 2012**

**Report by Project Manager**

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### **STRATEGY – LAND PURCHASE AND COMPENSATION**

**30 July 2013**

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#### **1 PURPOSE & SUMMARY**

- 1.1 This report provides an overview of the Scheme’s strategy towards land. This is in relation to land purchase and compensation arising from the Scheme’s requirement to occupy land. The report considers such requirement both during construction stage and over the longer lifetime of the Scheme.**
- 1.2 This report does not relate to the compensation to be paid to land owners or others for any losses incurred during the Scheme construction. These costs are included in the Scheme Risk Register.
- 1.3 The project team have developed a process through which the Land & Compensation (L&C) Strategy Estimate can be calculated. This has been in place for a few months and was put in place early to ensure the Scheme could deliver a robust estimate to fit into the Scheme’s Total Cost Estimate in the event of a requirement to submit a bid for funding to the Scottish Government. This L&C Strategy Estimate is considered to be a worst-case ‘normal’ scenario cost and it is assumed the final / out-turn cost will be less than this estimate.
- 1.4 The project team have identified six different approaches through which the Scheme can gain access to land through the Flood Risk Management (Scotland) Act 2009 (the FRM). It is proposed to use five of these in different locations based on which is most suitable. It is proposed that the Scheme only revert to the sixth, compulsory purchase of land, as a measure of last resort.
- 1.5 The Scheme will minimise the instances of negotiated land purchase and in each instance where this approach is proposed an individual business case will be developed to determine the benefit of the approach. Where possible the Scheme will dispose of land once it is no longer required.
- 1.6 In most instances the Scheme will not purchase land. Instead it will require temporary and permanent use of areas of land: to undertake the construction work, and where land is permanently removed from its existing use, respectively. These are defined as temporary and permanent land take.
- 1.7 In a number of instances the Scheme has entered into individual agreements with land owners and is now bound by the terms of those

agreements. In general the cost of such agreements will be met through defined Scheme Operations however in some instances the cost will be through the L&C Strategy Estimate.

- 1.8 It is the responsibility of the land owner to come to the Scheme with their claims and the Scheme will establish a process through which the District Valuer (DV) will manage such compensation claims for the Scheme.
- 1.9 Where the Scheme must initiate contact with a land owner SBC Estates will take the lead and will utilise the project team and the DV as required.

## 2 RECOMMENDATIONS

2.1 The Project Board approve the strategy towards Land Purchase and Compensation defined in this report so that the project team can deal with this part of the Scheme through the delivery stage in accordance with this strategy and specifically:

- (1) That the general approach of the Scheme will be in accordance with section 83 (2) (d) of the FRM in that it is the responsibility of those with a claim to come to the Scheme and not vice versa; and
- (2) That notwithstanding this general approach, in a number of defined instances (as detailed in section 12.1 of this report) the Scheme's project team and not the property owner / occupier will initiate the discussion regarding compensation for permanent and temporary land take.

## 3 REVISION HISTORY

Version	Date	Summary of Changes	Author
0-1	15-11-2012	First draft	Conor Price
0-2	30-07-2013	Revision to first draft	Conor Price
0-3	02-08-2013	Consultation with HGL & PA	Conor Price
0-4	05-08-2013	Consultation with PE	Conor Price
1-0	11-09-2013	Approval from Project Board	Conor Price

## 4 TABLE OF CONTENTS

Section No.	Section Heading	Page No.
1	Purpose & Summary	1
2	Recommendations	2
3	Revision History	2
4	Table of Contents	2
5	Background	3
6	Overview of the Scheme in relation to the L&C Strategy	3
7	Approaches to Land Take	4
8	Land Ownership and Land Occupancy	7
9	Creating Land Plans	7
10	Identifying Relevant Land Owners	8
11	Estimating Probable Land Compensation Costs	8
12	Negotiated Land Purchase – Specific Instances	10
13	Disposal of Land – Specific Instances	11
14	Individual Agreements – Specific Examples	13
15	Method of Managing Compensation Payments	14
16	Consultation	16

## **APPENDIX C**

### **KPMG – EXECUTIVE SUMMARY OF THE SCHEME'S FINANCIAL MANAGEMENT STRATEGY**





*cutting through complexity*

# Scottish Borders Council

Selkirk Flood Protection Scheme 2012  
Financial Management Strategy arrangements

Audit: Year ending 31 March 2014

FINAL: 20 January 2014

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	<b>Page</b>
<b>Executive summary</b>	2
<b>Introduction and background</b>	4
<b>Project management and governance</b>	5
<b>Compliance with relevant guidance</b>	6
<b>Financial Management Strategy – cost estimations</b>	9
<b>Process to bid submission</b>	13
<b>HM Treasury Green Book checklist</b>	14
<b>Appendix – Agreed scope of work</b>	19

**About this report**

This report has been prepared in accordance with the responsibilities set out within the Audit Scotland's *Code of Audit Practice* ("the Code").

This report is for the benefit of Scottish Borders Council ("Council") and is made available to Audit Scotland and the Accounts Commission (together "the beneficiaries"), and has been released to the beneficiaries on the basis that wider disclosure is permitted for information purposes, but that we have not taken account of the wider requirements or circumstances of anyone other than the beneficiaries.

Nothing in this report constitutes an opinion on a valuation or legal advice.

We have not verified the reliability or accuracy of any information obtained in the course of our work, other than in the limited circumstances set out in the scope and objectives section of this report.

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Scottish Borders Council has embarked on a significant programme of works to provide increased levels of flood protection at a number of locations within the Council boundary.

The development of the Selkirk Flood Protection Scheme (Selkirk FPS) was initiated in acknowledgement of the high risk of flooding to various parts of the town from the Ettrick and Yarrow Waters and the Long Philip and Shaw Burns. Based on the eligibility criteria for this next round of Scottish Government Flood Protection Scheme funding, Scottish Government funding will be available for up to 80% of the Selkirk FPS's expected costs of £28.8 million, with the balance to be met by the Council.

### **Project management and governance**

PRINCE 2 project management methodology has been adopted for the Selkirk FPS; the project is currently at stage six of the eight identified stages. Based on our high-level consideration of the project management arrangements, including discussions with the Project Manager and consideration of key stage documentation, those arrangements appear appropriate for the project. The adoption of a formal project management methodology meets the requirements of HM Treasury's Green Book for such complex projects.

Overall, we have gained assurance that, at a high-level, the project has been undertaken within a controlled environment.

### **Compliance with relevant guidance**

The Selkirk FPS has been undertaken in accordance with the Flood Risk Management (Scotland) Act 2009, supplemented by Scottish Government regulations and guidance. In the absence of this in the early stages of the project, adapted English guidance was followed, in accordance with Scottish Government instructions. Updated guidance

published by the Scottish Government in 2012 has been incorporated into the later stages of the project, principally the detail design stage following the timing of the approval of the Selkirk FPS in August 2012.

To the extent necessary for the completion of our work, we are satisfied that there is evidence to support the project team's reference to, and guidance by, the appropriate and relevant documentation.

There is detailed reporting on the approach to meeting the requirement to build optimism bias into the project in accordance with the requirements of HM Treasury's Green Book and supplementary guidance. Where appropriate, a distinction has been made between 'standard' and 'non standard' civil engineering to reflect factors assessed as complex, difficult or innovative.

Overall, we are satisfied that the project team has demonstrated meeting the requirements of HM Treasury's Green Book in the inclusion, and estimation of, the optimism bias factors in the calculation of the basic construction costs. This has subsequently been updated to reflect Scottish Government guidance.

We have reviewed the risk register which has been maintained by the Project Manager during the course of the project. In addition, we reviewed the minutes of risk workshops held, as well as the minutes of the Project Board meetings at which risks were considered. In our view, this meets the suggested content requirements for a project risk register set out in the Green Book.

A risk workshop has been held to bring together the monetised risk register and to enable the Project Board to challenge the risk analysis for the project. This workshop was appropriately minuted, and discussion and challenge noted.

### Financial management strategy – cost estimations

Subject to revisions currently underway as part of the response to the invitation to tender for Scottish Government support for the Selkirk FPS, total costs are estimated at £28.8 million.

The project risk cost allocation reflects the monetised value of the risk register. The optimism bias and tenderer's risk allocation are primarily contained within the construction works costs and are reflected in the monetised value of the risk register.

Within the context of the evolution of the risk allowance as detailed design has progress, the monetised element of the risk register appears reasonable and is based on a robust process and challenge.

The construction works are the significant element of the project, comprising close to 80% of the total costs. The project team has identified a procurement strategy such that the main construction works will be let as one NEC3 Option A (Activity Schedule) contract.

The design consultant has applied his own quality assurance procedures to review and consideration of the cost estimates and the risk allocation.

In order to obtain some independent challenge to these costs, an approach was made to a main contractor for assistance in providing example pricings for certain more complex elements of the project design. A report was prepared by the main contractor providing quotes and costs for alternative solutions to the elements of the work requested. These were found to be within 7% of the construction costs used by the design consultant, and are considered to be supportive of the general approach to cost identification.

### Process to bid submission

Final cost estimates are being developed for submission to the Project Board on 13 January 2014.

That the Scottish Government funding level will be determined at the bid stage, leaving the risk of overrun or other costs with the Council, does not appear to have been explicitly documented within the approach to risk. It is noted that this risk was only confirmed with the publication of the invitation to tender by the Scottish Government on 12 December 2013, outlining the funding restrictions.

Prior to submission of the bid, we believe it would be appropriate that the Project Board ensures that it documents its approach to this risk, through appropriate engagement with senior Council officers.

This should cover inclusion in the appropriate departmental risk register, for monitoring through the Council's corporate Covalent system in line with the corporate approach to risk management.

### HM Treasury Green Book checklist

HM Treasury provide a checklist against the five components of a major project: strategic case, economic case, commercial case, financial case and management case.

We have used this checklist at a high level against the evidence made available to us during the course of our work.

No significant issues have been raised. However, we note the identified risk on funding for cost overruns and consider that this should be appropriately documented and incorporated in Council risk registers as part of the final procedures leading up to bid submission.

## **APPENDIX D**

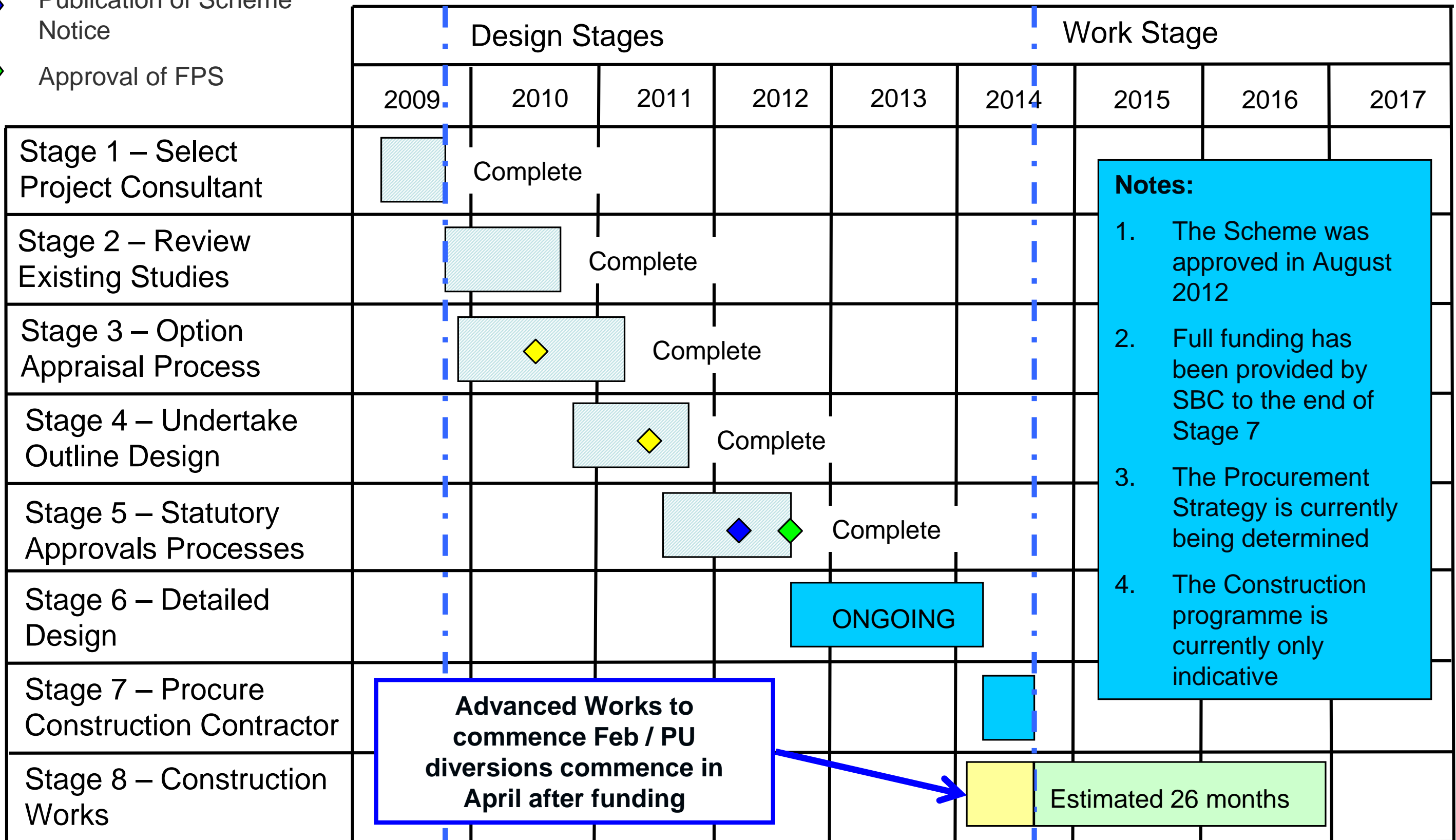
# **SCHEMATIC OF THE SCHEME'S PROJECT PROGRAMME**



# selkirk flood protection scheme

## SCHEMATIC SCHEME PROGRAMME – BY PROJECT STAGE

- ◆ Public Exhibitions No. 1 & 2
- ◆ Publication of Scheme Notice
- ◆ Approval of FPS



- Notes:**
1. The Scheme was approved in August 2012
  2. Full funding has been provided by SBC to the end of Stage 7
  3. The Procurement Strategy is currently being determined
  4. The Construction programme is currently only indicative