

**ANGUS COUNCIL**

**22 OCTOBER 2015**

**FUTURE SERVICE DELIVERY MODEL FOR CULTURE AND LEISURE SERVICES – UPDATE**

**REPORT BY ALAN MCKEOWN, STRATEGIC DIRECTOR COMMUNITIES/ALASTAIR WILSON,  
INTERIM HEAD OF SERVICES TO COMMUNITIES**

**ABSTRACT**

To provide the Council with an update on the Transforming Angus project for the future service delivery of Culture and Leisure Services through Angus Alive and to seek approval to transferring the delivery of services to Angus Alive.

**1. RECOMMENDATION(S)**

It is recommended that the Council:

- (i) Notes the progress against the recommendations contained in report 350/15;
- (ii) Notes the revised employee structure and recruitment timeline for Angus Alive;
- (iii) Notes that Charitable Status has been awarded in principle by the Office of the Scottish Charities Regulator (OSCR) and note the OSCR application;
- (iv) Notes the current position of the Admitted Body Status to the Local Government Pension Fund administered by Dundee City Council;
- (v) Notes that Union representatives have been fully briefed on this report and its contents. Employee briefings and formal consultation have taken place in line with the Council's Managing Change Policies.
- (vi) Approves the terms of the Final Business Case (FBC) contained within the report;
- (vii) Approves the proposed amendments made to the Articles of Association of the Trust;
- (viii) Appoints one elected member to be the authorised representative of the Council in terms of the Articles of Association of the Trust to formally represent the Council at company meetings;
- (ix) Agrees to the transfer of the functions set out in the FBC to Angus Alive on 1 December 2015;
- (x) Notes the terms of the contractual arrangements proposed for delivery of the services by the Trust and delegate authority to the Head of Legal and Democratic Services to agree the final terms of the contracts with the Trust and to enter into the contracts prior to the transfer date;
- (xi) Delegates authority to the Strategic Director – Communities to make all the necessary arrangements to ensure a smooth transition to Angus Alive on 1 December 2015;

## **2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN**

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Communities that are prosperous and fair
- Communities that are learning and supportive
- Communities that are safe and strong
- Communities that are caring and healthy

## **3. BACKGROUND**

**3.1** Report No 350/15 to Angus Council on 10 September 2015 agreed as part of the recommendations that a further report would be brought back to Angus Council providing the final details to allow a decision to be taken on the formal establishment of the Angus Alive Trust to commence delivery of services on 1 December 2015.

**3.2** The project team and project board are continuing to work hard towards achieving the targets set under each work stream to ensure that the Go Live date is met.

Work stream leads are pulling together the final elements of their respective areas of expertise and our strategic partners, EY continue to support areas of work as required.

## **4 CURRENT POSITION**

**4.1** The Final Business Case (FBC) attached as appendix 1, sets out the business case for the future delivery of ACCESS and Cultural and Leisure Services.

It is proposed, based on this business case that the trust is used as the future model for service delivery whilst providing substantial savings. These savings are primarily achieved from exemptions on Non Domestic Rates (NDR) and the VAT arrangements of the organisation.

The savings on NDR are dependent upon the successful application to OSCR from Angus Alive for charitable status and the subsequent successful applications to the Council for the NDR relief for each of the facilities in scope. The VAT savings are very much dependent on Angus Alive obtaining agreement with HMRC on the VAT arrangements. These dependencies are clearly a risk to the Council in achieving the maximum savings for this project - further information on these risks and how the Council can mitigate these risks is contained in Section 6 below.

The range of overall savings identified in the FBC is between £0.737m and £1.169m with the prudent scenario estimating overall savings of £0.897m. Further information with regards to these savings is contained within the Financial Case of the FBC.

**4.2** The overall impact of this proposed employee structure would result in overall staff cost savings estimated at around £376,000, although only some £113,000 of the saving stems directly from the Transforming Angus project for the future service delivery of Culture and Leisure Services. The remaining estimated £263,000 saving relates directly to the impact of other Transforming Angus programmes, such as channel shift.

The proposed employee structure had been approved in principle by the Shadow Board of the trust and now following the approved HR formal consultation process a final proposed employee structure is being presented to the Shadow Board of the trust. This is attached as appendix 3.

**4.4** The application to The Office of the Scottish Charity Regulator has been submitted applying for charitable status for Angus Alive. This is required to allow the trust to apply for NDR relief and benefits with the treatment of VAT in order that substantial savings are achievable

through this model of service delivery. The application has been successful, in principle, and we were informed that we would be given charitable status on 08/10/2015. A Charities Registration number will follow in the near future.

- 4.5 Discussions have been taking place with Dundee City Council (DCC) with regards to Local Government Pension Fund and a report will be presented to the appropriate committee of Dundee City Council seeking admission to the pension fund.

Admission to the Local Government Pension Fund (LGPF) prior to the commencement date is a critical element of the project raised by elected Members and Unions as a protection for employees transferring to the Trust. At the time of drafting an exact date for the required Joint Council meeting was being set but Dundee City Council have offered a letter of comfort in advance of the meeting and the position has been discussed with trade unions.

- 4.6 The second interviews for the Chief Executive took place on the 15 October 2015 where 2 of the original applicants were recalled. Owing to the recruitment timetable, an oral update will be provided to Council on this aspect of the Angus Alive process.
- 4.7 The recruitment of the second tier posts commenced on 19 October. Owing to the recruitment timetable, an oral update on the appointment of the three Senior Manager posts; Senior Manager Sport & Leisure, Senior Manager Libraries, Customer & Culture and Senior Manager Business Management and Development will be provided to Council.
- 4.8 The remaining recruitment required to populate the proposed new structure will be programmed in to ensure they are completed prior to the staff transfer process required for the Go Live date.
- 4.9 The employee structure below the Chief Executive has been populated in line with the Council's Managing Workforce Change policies.
- 4.10 The trade unions have been involved in the processes and continue to have representation at the Employee Forums and drop-in sessions and any further consultation events organised by the department.
- 4.11 At this critical stage with 5 weeks before Go Live date it is important that quick decision making and response to minor queries are dealt with immediately to avoid any delays in the process. With this in mind members are asked to delegate authority to the Strategic Director – Communities in consultation with the Head of Legal and Democratic Services and Head of Corporate Improvement and Finance to progress all works to ensure a smooth transition from the Council to the Trust on 1 December 2015.
- 4.12 The Strategic Director – Communities will continue to consult with Human Resources, Legal and Democratic Services and Corporate Improvement and Finance in the decision making process to ensure that processes are in line with Council policy as the service transfer to Angus Alive.

## **5. COMPANY FORMATION**

- 5.1 Members will recall that the trust has been created as a company limited by guarantee which was incorporated under the name Angus (CLT) Limited along with a trading subsidiary. Members agreed in report 350/15 on 10 September 2015 to amend the name of the company to Angus Alive. Following incorporation of the companies, minor amendments have been made to the company' articles of association, particularly to the objects clause which sets out the purposes for which the company exists. A copy of the amended articles is attached as appendix 2 and members are asked to approve the amended articles.
- 5.2 Members will be aware that four elected members have been appointed as directors of the trust. Their responsibilities are for the day to day operations of the trust. However, the Council is the sole member (or owner) of the trust and as such has specific responsibilities in

terms of Company Law. There are specific issues which only the Council as a body can determine, such as agreeing changes to the company's objects. This function is best dealt with by appointing a duly authorised representative of the Council to represent the council at these meetings. Members are asked to appoint one elected member who will represent the council, in addition to the four members who have been appointed as directors. The authorised representatives will be required to sign the formal resolutions to amend the company name to Angus Alive and to approve the amended articles.

## **6. CONTRACTUAL STRUCTURE**

- 6.1** There are a number of legal documents to be entered into which will govern the relationship between the trust and the council.
- 6.2** The Transfer Agreement sets out the details for the transfer of the business from the Council to the trust and includes the provisions for the staff transfer, licencing of premises and assets. The trust will employ all of the council's staff who currently work within the services in the scope of this project and will transfer by operation of the Transfer of Undertakings Regulations. The trust will be granted a licence to occupy all of the buildings it needs to provide the services, all as detailed in the FBC. The Council is retaining responsibility for maintenance of all of the buildings. The trust will also be granted a licence to use all of the council assets to provide the services, for example sports equipment and library books.
- 6.3** The Services Agreement sets out the services which the trust will require to provide, as set out in the FBC. This sets out how the contract is governed including the trust providing business plans to the council in terms of the budget processes and mechanisms for monitoring the performance of the Trust
- 6.4** The Support Services Agreement provides that the Charitable Trust will be provided with a range of support and administration services from the Council at no cost. These services will be provided by the Council for an initial period of 40 months and on a rolling 12 month basis thereafter. 12 months notice will be required to terminate this agreement.
- 6.5** In order to ensure that the trust receives independent legal advice, independent legal advisers have been appointed to the trust to ensure that the directors receive independent advice regarding the terms of these contracts. During the next stage of the process, it is likely that the contracts will be subject to a number of revisals and members are asked to authorise the Head of Legal and Democratic Services to agree appropriate terms and conditions with the Trust.

Although Angus Alive will be wholly owned by the Council there will be a need for officers from the Communities Directorate to manage the contractual relationship and ensure, from the Council's perspective, that the various legal agreements are being adhered to and the services to be delivered by Angus Alive are in accordance with what has been agreed. The primary point for management will be the Service Manager, Regulatory and Protective Services. Given the responsibility of this function it will be necessary to review this post to ensure the function is reflected in the Job Description, Person Specification and overall remuneration of this post. This will be done as soon as possible in conjunction with the Head of HR, IT and Organisational Development. In addition to this there will be changes to how the customer interface is managed within Communities and a new systems development and implementation role will be created with resources (within existing budgets) transferring from the Communities Directorate to the Resources Directorate to support the further development of the transformational agenda.

## **7. FINANCIAL IMPLICATIONS**

- 7.1** The cost of the continuing work undertaken by EY will be met from the Transforming Angus (TA) budget and will continue to be scrutinised by the TA Board.
- 7.2** The transition costs associated with the transfer of the leisure and cultural services to Angus Alive have been identified as part of each project work stream and for the purposes of the updated business case have been estimated at £0.563m. These one-off costs include the aforementioned costs associated with the support from EY on the project, potential costs

associated with the management restructuring exercise and also other transitional costs such as new branding and uniforms. Approval has already been granted by the TA Board to fund up to £0.350m of the transition costs (report 401/15 to the Policy and Resources Committee refers) from the TA change fund. It's anticipated that the remainder of the estimated transition costs (£0.213m) will be met either by the TA change fund subject to obtaining the relevant authority from the TA Board or from the year 1 savings arising from the creation of Angus Alive, i.e. part of the one off costs of making the change would be netted off the savings available in year 1. It should be noted that it's currently predicted that the TA change fund only has headroom of some £0.235m after allowing for projected expenditure commitments to March 2017. This projection does not however allow for the potential to bolster the TA change fund balance through routes such as utilising current year revenue budget underspends or applying capital resources where appropriate.

- 7.3** It will therefore be necessary, as part of the current year's financial monitoring arrangements and the 2016/17 budget setting process, to finalise how the balance of one-off costs from implementing Angus Alive will be funded including considering the future funding levels and arrangements for the TA change fund, to ensure that other potential commitments from other TA projects and programmes can be accommodated.
- 7.4** The additional on-going costs associated with the services being provided by Angus Alive are estimated to be in the region of £0.272m (including a contingency element) as identified within the Financial case.
- 7.5** By implementing a go-live date in December 2015 the financial savings which could be achievable primarily from VAT, NDR and management restructure savings, are estimated at between £0.737m and £1.169m in a full financial year as long as the relevant arrangements and exemptions are agreed and granted with the prudent scenario estimating overall savings of £0.897m. These savings would accrue ahead of the budget savings needs. The risk of not going live on December 2015 is that the potential savings and benefits from this project would not be realised from 1 December 2015. The full financial implications will become clear in the months after Go Live once the relevant arrangements and exemptions have been agreed and granted.

## **8. RISKS**

- 8.1** There are a number of risks associated with the project. These are set out below:
- 8.2** The timescales for Angus Alive are ambitious. The pace at which work is happening and the volume of work required is significant. All deadlines are tight but members have shown considerable understanding of this and provided flexibility on timescales for submission on reports and key documents. This grace will be required right up to the Go Live date and beyond. To control the risk it is clear that key officers will be required to immerse themselves in Angus Alive work. To be clear this will absolutely mean other work will not be carried out by those officers, it will be re-allocated but delays in other work will be created. Implications may be seen in HR, IT, Legal, Finance and Communities whilst this work is prioritised. In approving this report members and the Council as an organisation are explicitly signing up to this prioritisation with Service leads making prioritisation decisions on an operational basis.
- 8.4** The preparation for admission to the pension body has been submitted, the decision on that admission is in the hands of a neighbouring authority. Whilst the process of admission is following a known path, again the decision is not in the hands of Angus Council and there is a risk that should be highlighted. Members have provided reassurances to staff and unions that a transfer to Angus Alive will not take place until admitted body status is secured and should this not happen by the 1 December then the transfer to Angus Alive of functions and staff will not happen until the admitted body status is secured. Members should note that all necessary mitigating actions have been taken to manage this risk and given a date is now secure and a letter of comfort provided by Dundee City Council at the time of drafting a meeting was being established with Unions to agree a way forward between this Committee and 1 December 2015.

- 8.5** There is a risk that further NDR relief is not secure for the campus element of the business. Dialogue will start shortly with the rates assessor on the dual use facilities which will hopefully help identify and address any issues with these facilities at an early stage.
- 8.6** A further financial risk relates to the potential savings on the VAT arrangements for Angus Alive. An agreement will need to be reached with HMRC on the proposed VAT arrangements therefore this decision is very much out of the hands of the Council. This risk will however be partly mitigated by ensuring the Council's strategic partner, EY, lead the discussions and engagement with HMRC given their vast experience and skills in this highly specialist area whilst being supported by internal Council finance resources. In addition the engagement with HMRC will start as soon as the relevant agreements are sufficiently developed in order to identify any issues as early as possible in the process.

## **9. OTHER IMPLICATIONS**

**9.1** The transfer of Culture and Leisure Services to Angus Alive will see the Council move from being a provider of core culture and leisure facilities and services, to an enabler. Whilst this is a significant shift it is expected a positive relationship will be developed and maintained and a positive partnership that extends beyond the terms of the written agreement is the aim of all parties.

**9.2** External factors may also impact upon the ability to meet certain milestones within timescales which, if substantial, may also require adjustments to the programme but these will not be material to the Go Live date.

## **10. CONSULTATION**

**10.1** The Chief Executive, Strategic Director – Resources, Head of Corporate Improvement and Finance, Head of Legal and Democratic Services and Trade Unions have been consulted on the terms of this report.

**NOTE:** No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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**Appendix 1**

Final Business Case

**Appendix 2**

Articles of Association

**Appendix 3**

Employee Structure

**Appendix 4**

OSCR Application