

**LEISURE & LIBRARIES TRUST - FINANCIAL AGREEMENT**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to provide an update on the progress of the Leisure and Libraries Trust and to agree the management fee between the Council and the Trust.
- 1.2 In February 2016 the Council agreed to the preparation of a business case on the future of the leisure and libraries services as part of the Council's Service Choices Savings Programme. In May 2016 Ernst & Young (EY) were appointed to undertake a full business case on the service options available to the Council. At the Council meeting on 24th November 2016 the Council approved the Full Business Case (FBC) prepared by EY and approved that the next steps to implementation of a Charitable Trust set out in the FBC be taken forward within the proposed governance arrangements.
- 1.3 The next steps within the report which have now been undertaken are as follows:

**Commercial case**

- Confirmed the preferred approach to the Charitable Trust's legal structure.
- Carried out Shadow Board recruitment and reviewed Governance Arrangements.
- Agreed name and logo for Trust – LiveArgyll, see appendix 2
- Developed legal documentation including Lease Agreements, SLAs and Management Fee.
- Confirmed approach for the provision of support services, maintenance and utilities.

**Financial case**

- Reviewed the base financial figures and prepared the attached appendix 1.

**Management case**

- Developed robust and comprehensive Project Plan.
- Undertaken dialogue with OSCR and HMRC.
- Implemented communication strategy.

It is recommended that

- a) Members note the progress update.

- b) Members agree the management fee and contract terms between the Council and the Trust as set out in paragraphs 4.5.3 and 4.5.4.
- c) Agree “go live” date for LiveArgyll of 2<sup>nd</sup> October 2017.

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**2.0 INTRODUCTION**

2.1 At the Council meeting on 24th November 2016 the Council approved the Full Business Case prepared by Ernst and Young and approved that the next steps to implementation of a Charitable Trust set out in the Full Business Case be taken forward within the proposed governance arrangements.

2.2 The next steps within the report which have now been undertaken are as follows:

**Commercial case**

- Confirmed the preferred approach to the Charitable Trust's legal structure.
- Carried out Shadow Board recruitment and reviewed Governance Arrangements.
- Agreed name and logo for Trust – LiveArgyll, see appendix 2
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- Confirmed approach for the provision of support services, maintenance and utilities.

**Financial case**

- Reviewed the base financial figures and prepared the attached appendix 1.

**Management case**

- Developed robust and comprehensive Project Plan.
- Undertaken dialogue with OSCR and HMRC.
- Implemented communication strategy.

**3.0 RECOMMENDATIONS**

It is recommended that:

- a. Members note the progress update.
- b. Members agree the management fee and contract terms between the Council and the Trust as set out in paragraphs 4.5.3 and 4.5.4.
- c. Agree "go live" date for LiveArgyll of 2nd October 2017.

## 4.0 DETAIL

4.1 The Council approved the EY Full Business case and its recommendations for the implementation of a Leisure & Libraries Trust in November 2016. A Project team was set up in December 2016 to undertake the key activities. The services within the scope of the Trust are:

- Libraries
- Archives
- Museum
- Leisure Facilities
- Halls
- Community Centres
- Active Schools
- Sport Development
- Community Lets

4.2 Implementation was projected to take between 9-12 months from November 2016 and the project is on track for the Trust to “go live” on 2<sup>nd</sup> October 2017.

4.3 The project work was divided into seven key workstreams and progress against the project plan milestones was reported through a highlight report to the Council’s Senior Management Team on a monthly basis. The workstream leads comprise of a group of Trust service scope managers and senior support service managers. The workstreams are:

- Finance
- HR
- Management Structure and Assets
- Governance and OSCR
- Service Specification
- Support Services Specification
- Branding and Communications

All the targets on the critical path for each of the workstreams have been achieved to date.

## 4.4 Commercial case progress

4.4.1 Brodies and EY are assisting the project team to develop the legal documentation for operating the Arm’s Length External Organisation (ALEO) for the following:

- The Lease Agreement - covers the ownership of the building assets which will be retained by the Council and leased to the Charitable Trust
- Service Level Agreement (SLA) – The Charitable Trust will require a range of support and administration services which it will procure from the Council under a number of SLA’s
- The Operating Agreement - Sets out the Management Agreement between the Trust and the Council and includes the Service Specifications to be delivered by the Trust and the management fee payable by the Council.

4.4.2 In February 2017 the Council agreed to advertise for Independent Trustees/Directors for the Board in line with the decision taken in November 2016. Three Independent Board Members were selected by a panel of senior Councillors in April 2017 and the three council appointed board members were agreed in May 2017. In line with best practice a Trade Union representative was nominated by joint Trade Unions in June 2017. The first Shadow Board meeting took place in June 2017 where the Articles of Association, Standing Orders and Financial regulations were signed off.

4.4.3 Board Members

Chair, Andrew Nisbet - Independent member  
Vice Chair, Mairi Coleman - Independent member, Chair of Business and Performance Sub Group  
Charles Brodie – Independent, Chair of Finance and Audit Sub Group  
Jim Anderson, Elected Member  
Graham Hardie, Elected Member  
Jim Lynch, Elected Member  
Mary Watt, Trade Union representative

4.4.4 The approach for the provision of support services, maintenance and utilities has been agreed in line with the advice given by EY and Brodies. This will ensure the Council can optimise its VAT savings following dialogue between EY VAT specialists and HMRC and acceptance by HMRC. EY have reviewed the contracts for transfer and operation of the trust in order to obtain HMRC's approval and a favourable VAT outcome.

4.4.5 Following a rigorous recruitment process the trust board appointed a General Manager in June 2017. The successful candidate is Kevin Anderson, a senior financial manager within the Council and he will take up the post in September 2017.

## 4.5 Financial case progress

4.5.1 The projected financial position has been updated based on two scenarios put forward by our external VAT advisors and is detailed in Appendix 1. The greater savings will be achieved through Scenario 2 where irrecoverable VAT is reduced by the Council taking responsibility for repairs, utilities and support services associated with the Trust's assets. This analysis presents the projected 2017/18 to 2020/2021 financial position for the charitable trust. The analysis is used to project the annual management charge for these three full years and refines the information and assumptions contained in the FBC.

4.5.2 In this paper, the base financial position of the future operating model has been established. The financial projections reflect:

- ▶ The opening net deficit for the Leisure and Library Services is £6.797m
- ▶ The Charitable Trust would be expected to make savings in respect of NDR and VAT of between £0.556m and £0.705m. For Scenario 1 the NDR and VAT savings apply a prudent assumption of a £0.636m saving. For Scenario 2 the NDR and VAT savings are £0.705m. To achieve Scenario 2 savings will require approval from HMRC which EY (VAT Advisors) anticipate will be given.

4.5.3 In order to maximise the Trust's opportunities for obtaining external funds to support its business plan, the Trust Board has requested the Council provide at least a 10 year contract period for the delivery of the services. It is recommended this length of contract is agreed. The Council currently has agreed annual uplifts on its SLA's with some Community Enterprises for the delivery of leisure services. The trust board would ideally prefer a similar arrangement for a five year period. However, in the current financial climate it is proposed that an annual uplift to cover staff pay awards is added to the baseline financial projections for the trust management fee. This is in line with the budgeted pay award increases the Council factors into its own budgets. It is proposed that this financial arrangement is reviewed after a 3 year period on the basis that the trust will be able to grow its income streams and over time the percentage of the trust expenditure represented by the management fee will reduce.

4.5.4 Taking account of the treatment of the VAT scenarios by HMRC the Head of Strategic Finance has calculated the management fee payable in the first full year to the trust will be £3.615m (representing Scenario 1), however, it is anticipated that the fee would reduce to £3.546m (Scenario 2).

#### **4.6 Management case progress**

4.6.1 The new trust, with an operating name of LiveArgyll has been set up as a company limited by guarantee as agreed in November 2016. The trust is a wholly owned subsidiary of the council and following a process of due diligence Charitable Status has been granted by OSCR – Charity Number SC047545.

4.6.2 LiveArgyll has also now been registered with Companies House - Company Number 569568

4.6.3 In order to ensure successful TUPE of 264 staff to LiveArgyll, Brodies have worked with Strathclyde Pension Fund (SPF) to submit the formal request for the new trust to be given admitted body status within the SPF. This will enable the charitable trust employees to continue to participate in the Local Government Pension Scheme with no change to Pension provision and full service protection.

- 4.6.4 To ensure all staff were fully consulted over the last six months the project team has provided regular briefing updates on progress with the implementation plan. In addition, seven roadshows were held in all the main service locations during late April to provide maximum opportunity for the staff to be fully updated on progress and any matters they wished to raise. The Trade unions were also fully involved in this process.

## **5.0 CONCLUSION**

- 5.1 This report provides members with an update on progressing the next steps to allow implementation of the Charitable Trust leading to LiveArgyll going live on 2<sup>nd</sup> October 2017.
- 5.2 This report provides members with an overview of the current financial position and seeks agreement on the management fee to be paid by the Council to the Trust from October 2017 to March 2021.

## **6.0 IMPLICATIONS**

- 6.1 Policy - None
- 6.2 Financial - The council agrees a full year 2018/19 annual management charge with the ALEO of £3.615m (representing Scenario 1), however, it is anticipated that the fee would reduce to £3.546m. This will achieve the budgeted annual net savings of £540k agreed by the Council in February 2017.
- 6.3 Legal - Complies with Companies House and OSCR regulations
- 6.4 HR - Complies with TUPE regulations
- 6.5 Equalities - Complies with Equalities guidance
- 6.6 Risk - Council savings will not be achieved if project does not proceed to timescale
- 6.7 Customer Service - Sustained and enhanced customer services

**Ann Marie Knowles, Acting Executive Director of Community Services**

**Robin Currie, Policy Lead for Communities, Housing, Islands and Gaelic Housing**

3<sup>rd</sup> August 2017

**For further information contact: Donald MacVicar, Head of Community & Culture 01546 604364 or Kirsty Flanagan, Head of Strategic Finance 01546 604268**



**APPENDIX 1****Financial Position (including inflation)**

	FY 17/18	FY 18/19	FY 19/20	FY 20/21
	1 Oct	1 April	1 April	1 April
	2017 -	2018 -	2019 -	2020 -
	31	31	31	31
	March	March	March	March
	2018	2019	2020	2021
	£'000	£'000	£'000	£'000
<b>Income</b>	<b>(1,264)</b>	<b>(2,527)</b>	<b>(2,527)</b>	<b>(2,527)</b>
Accounting Adjustments	-	-	-	-
Employee Expenses	2,295	4,681	4,774	4,870
Premises Related Expenditure	395	790	790	790
Supplies and Services	436	872	872	872
Support Services and Departmental Admin Charges	-	-	-	-
Third Party Payments	168	336	336	336
Transport Related Expenditure	50	99	99	99
<b>Expenditure</b>	<b>3,344</b>	<b>6,778</b>	<b>6,871</b>	<b>6,967</b>
<b>Total Net Expenditure</b>	<b>2,080</b>	<b>4,251</b>	<b>4,344</b>	<b>4,440</b>
NDR and VAT Savings (VAT Scenario 1)	(318)	(636)	(636)	(636)
<b>Total Management Charge (VAT Scenario 1)</b>	<b>1,762</b>	<b>3,615</b>	<b>3,708</b>	<b>3,804</b>
NDR and VAT Savings (VAT Scenario 2)	(353)	(705)	(705)	(705)
<b>Total Management Charge (VAT Scenario 2)</b>	<b>1,727</b>	<b>3,546</b>	<b>3,639</b>	<b>3,735</b>

APPENDIX 2

