

## PERTH AND KINROSS COUNCIL

19 December 2012

**SECURING THE FUTURE FOR CULTURE AND LEISURE: PROGRESS REPORT****Report by Executive Director (Education and Children's Services)****ABSTRACT**

This report sets out the progress made in establishing Live Active Leisure and Horsecross Arts as arms-length companies with sole member status, and remaining steps to conclude the process.

**1 RECOMMENDATION:**

It is recommended that the Council:

- Notes the further progress in establishing a new arms-length delivery model for culture and leisure services, and the anticipated timescales for concluding the process.

**2 BACKGROUND**

- 2.1 On 30 June 2010 (report to Council 10/357) proposals to deliver savings and explore alternative delivery models for culture and leisure were agreed. On 28 September 2011 (report to Council 11/497) the Council agreed specific proposals to change the existing delivery model for culture and leisure by establishing Horsecross and Live Active Leisure as two separate sole member companies, with the Council as sole member of each.
- 2.2 These changes were recommended to ensure compliance with public procurement and State Aid requirements, strengthen overall governance and accountability and follow national guidance from Audit Scotland and the Office of the Scottish Charity Regulator (OSCR) on Arms Length External Organisations (ALEOS).
- 2.3 A progress update for Council on 3 October 2012 (*report 12/439*) reported that dialogue had been taking place with senior representatives of both Horsecross Arts and LAL over the summer, that both Boards had required time to consider the proposals and their implications for maintaining an appropriate degree of independence from the Council via the new arms-length arrangements which sole member status brings, and that it was hoped to reach final agreement with a view to fully implementing the sole member arrangements in the first half of 2013.

### **3 Progress since October 2012**

#### ***Move to sole member companies***

- 3.1 As reported on 3 October 2012, dialogue with senior representatives of Horsecross and LAL has been ongoing and this has continued in October and November focused on agreeing the revised Articles of Association and the Governance and Accountability Framework which are the key documents required to effect the move to sole member status for both organisations. On 3 October 2012, Council remitted the Executive Director (Education and Children's Services) to conclude discussions with both Boards to formally agree both documents.

#### ***Horsecross Arts***

- 3.2 Horsecross Arts remitted consideration of the sole member proposals to its Governance Sub-Group which met in mid-November 2012. The Sub-Group reported its conclusions to the Horsecross Board and AGM on 28 November 2012. The Chair of the Board subsequently reported to the Executive Director for Education and Children's Services that the Board expected to finally agree the sole member proposals at its next formal meeting on February 20, 2013. The Chair reported that 'some fine-tuning of the Articles was required in respect of the transition arrangements for existing Board members. Additional clarification is sought in respect of some points in the Governance and Accountability Framework.'
- 3.3 Assuming the proposals are finally agreed on 20 February 2013, an EGM (which requires 21 days notice) will be called thereafter where members will be asked to ratify the Board decision. Although it is disappointing not to be able to report final agreement, it is considered that these outstanding matters are capable of being resolved so that sole member company status will be in place soon after the start of the 2013/14 financial year. This will be underpinned by a new contractual agreement for delivery of services in 2013/14.
- 3.4 The move to sole member status is a change for the current organisation, and as reported on 3 October 2012 has therefore required close, ongoing dialogue between senior Council officials and the Board to move towards agreement. At the Board meeting on 28 November the positive and constructive dialogue with Council officials, in particular in recent months, was also acknowledged.

#### ***Live Active Leisure***

- 3.5 In dialogue with senior Council officials and at its October and December Board meetings, LAL has declared itself generally satisfied with the Articles of Association which were discussed by the Board on 25 October 2012. The Governance and Accountability Framework was discussed by the LAL Board on 6 December 2012 and senior LAL representatives have indicated they are broadly content with the document subject to further discussion on some

points. However, there are still aspects of due diligence which LAL has to complete and a number of other outstanding issues on which discussions are continuing to take place.

- 3.6 Again, it is disappointing not to be able to report final agreement but these negotiations have also been conducted in an increasingly positive spirit. This is a mark of the trust which has developed between the Council and LAL, a key factor in making the new relationship work.
- 3.7 Like Horsecross, the LAL Board expects to finally agree the proposals in February 2013. Unlike Horsecross, LAL does not have ordinary members in addition to its Board members, so it will be able to ratify this decision immediately.

### ***Biennial Reviews***

- 3.8 On 3 October 2012 (report 12/439) it was proposed that the first biennial review of the new working arrangements should be completed in September 2013. It is now proposed that the first review is completed in April 2014, aligning with the first two years of operating new contracts with both organisations.

## **4 PROPOSALS**

- 4.1 Following adoption of the proposals at a Horsecross EGM in early March 2013, the new arrangements for Horsecross are expected to come into effect on 1 April 2013 or as soon as possible thereafter. There will be work in advance of that date to confirm the new contractual arrangement following a review of the current Service Level Agreement, as indicated at 3.8 above. In the case of LAL, and as indicated in 3.7, it is also hoped to bring the new arrangements into place on 1 April 2013 or as soon as possible thereafter.
- 4.2 It is therefore proposed that in accordance with the powers agreed by Council on 3<sup>rd</sup> October 2012, the Executive Director (Education and Children's Services) conclude discussions with Horsecross and Live Active Leisure on the move to sole member status, including new contractual agreements which would come into effect from 1 April 2013 or as soon as possible thereafter.

## **5 CONSULTATION**

- 5.1 The Executive Officer Team, the Head of Legal Services, the Head of Democratic Services, the Head of Finance, Horsecross, and LAL have been consulted in the development of this report.

## **6 RESOURCE IMPLICATIONS**

- 6.1 The costs of moving Horsecross and LAL to a sole member basis will be contained within the existing revenue budget for Education & Children's Services in the current financial year.

## **7 COUNCIL CORPORATE PLAN OBJECTIVES 2009-2012**

7.1 The Council's Corporate Plan 2009-2012 lays out five Objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:-

- (i) A Safe, Secure and Welcoming Environment
- (ii) Healthy, Caring Communities
- (iii) A Prosperous, Sustainable and Inclusive Economy
- (iv) Educated, Responsible and Informed Citizens
- (v) Confident, Active and Inclusive Communities

7.2 The proposal contained within this report contributes particularly to objectives (i), (iii), and (v).

## **8 EQUALITIES IMPACT ASSESSMENT (EqIA)**

8.1 An equality impact assessment needs to be carried out for functions, policies, procedures or strategies in relation to race, gender and disability and other relevant protected characteristics.

8.2 This supports the Council's legal requirement to comply with the duty to assess and consult on relevant new and existing policies.

8.3 The actions recommended in this report were considered under the Corporate Equalities Impact Assessment process (Eq1A) and were assessed as not requiring an assessment.

## **9. STRATEGIC ENVIRONMENTAL ASSESSMENT**

9.1 Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all qualifying plans, programmes and strategies, including policies (PPS).

9.2 It is considered that an SEA is not required in respect of the proposals set out in this report.

## **10 CONCLUSION**

10.1 Although progress has been slower than was hoped for, it is anticipated that sole member status will be achieved soon after the beginning of financial year 2013/14. In the course of negotiations good working relationships have been developed which is a positive foundation for securing the future of culture and leisure services in Perth and Kinross.

**JOHN FYFFE**  
**Executive Director (Education and Children's Services)**

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

**Contact Officer:** John Fyffe,  
Ext. No. 01738-475445

**Address of Service:** Pullar House, 35 Kinnoull Street, Perth, PH1 5GD

**Date:** 10 December 2012

If you or someone you know would like a copy of this document in another language or format, (on occasion only, a summary of the document will be provided in translation), this can be arranged by contacting *The Communications Manager*  
E-mail: [ecsgeneralenquiries@pkc.gov.uk](mailto:ecsgeneralenquiries@pkc.gov.uk)



Council Text Phone Number 01738 442573

