

## PERTH AND KINROSS COUNCIL

3 OCTOBER 2012

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

This report updates Council on the progress made in respect of the recommendations agreed in the Council Report of 28 September 2011 and in particular the progress made to achieve sole member company status for Horsecross and Live Active Leisure. The report sets out the steps which have been taken and the issues which have been encountered. It concludes that the Council, Horsecross and LAL appear to be close to reaching agreement.

**1 RECOMMENDATIONS**

It is recommended that the Council:

- 1.1 notes the progress in developing a new arm's length delivery model for culture and leisure services as agreed by Council on 28 September 2011,
- 1.2 delegates to the Executive Director (Education and Children's Services) the authority to agree terms for the new model with Horsecross and LAL, and
- 1.3 instructs the Executive Director (Education and Children's Services) to submit a report on progress to Council in December 2012.

**2 BACKGROUND**

- 2.1 On 30 June 2010 (*Report to Council No 10/357 – Securing the Future – Towards 2015 and Beyond*), the Council agreed proposals intended to deliver savings and explore alternative service delivery models. These included specific proposals to examine the way in which culture and leisure services were delivered, including the services delivered by the Council's arm's length providers, Horsecross and LAL.
- 2.2 A review was subsequently undertaken which identified certain key drivers for change in relation to these arm's length delivery arrangements. These related to procurement, State Aid, governance and accountability, and financial and operational sustainability. At its meeting on 28 September 2011, (*Report to Council No 11/497 – Securing the Future for Culture and Leisure Services*) the Council agreed a range of proposals, reflected in 2.4 below, to make changes to the current service delivery model for culture and leisure services with Horsecross and LAL.
- 2.3 The Council moved away from an initial proposal to consider a single integrated delivery body for culture and leisure services and a two-company

sole member model was agreed by Council on 28 September 2011. Work has been taking place since then to implement this model.

## 2.4 Specifically, the Council agreed to:

- i. Change both Horsecross and LAL to sole member companies with the Council as the sole member of each organisation
- ii. Review the governance and accountability arrangements between the Council, Horsecross and LAL, in the context of the new model and also in the light of published guidance from Audit Scotland on Arm's Length External Organisations (ALEO's)<sup>1</sup>, and from the Office of the Charities Regulator (OSCR)<sup>2</sup>
- iii. The development of a revised Strategic Framework of Engagement to clarify the roles of Horsecross and LAL in delivering on the Council's key strategies and priorities for culture and leisure
- iv. The Council, working with both organisations, to lead a review of the monitoring and management arrangements with Horsecross and LAL to reflect the revised strategic framework of engagement, and the operational and strategic interaction of both organisations with the Council
- v. Horsecross and LAL working with the Council to review opportunities for increased collaborative working and to identify opportunities for further efficiencies and savings and put in place strategies to achieve this
- vi. The Council working with the LAL Board to find a solution to funding pressures already identified
- vii. Processes being put in place to resolve all necessary contractual issues
- viii. The Council undertaking, from 28 September 2011 a biennial review of the delivery arrangements to identify any further changes required to the delivery model or the scope of services being delivered, the first of these to be focused on assessing the progress and effectiveness of the two-company model.

## 3 PROGRESS TO DATE

### Consultation and Engagement

- 3.1 Good progress has been made with the Boards and senior management teams of both organisations and, since the Council meeting in September 2011, a series of workshops, briefings, and discussions have been held with both Horsecross and LAL. In addition, senior officers have attended the Board meetings of both Horsecross and LAL where the planned changes have been discussed.

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<sup>1</sup> *Arm's Length External Organisations (ALEO's): are you getting it right?* A report by the Accounts Commission, published on 16 June 2011

*Roles and working relationships: are you getting it right?* A report by the Accounts Commission, published on 26 August 2010

<sup>2</sup> *Who's in Charge: Control and Independence in Scottish Charities?* A report by the Office of the Scottish Charity Regulator (OSCR), published on 16 March 2011

- 3.2 Separate strategic discussions with senior representatives of Horsecross and LAL have been convened by the Executive Director (Education and Children's Services) to facilitate progress.
- 3.3 Reaching agreement to the proposed changes has been slower than anticipated. The Boards of both organisations have needed time and independent advice to consider their responsibilities as directors of a charitable company and their collective responsibilities as Boards.

**Progress against Specific Proposals Agreed by Council:**

- 3.4 Proposals (i) to (iv) at paragraph 2.4 above relate to changes to overall governance and accountability, contractual monitoring, and relationship management arrangements in place with the Council, Horsecross and LiveActive Leisure.
- 3.5 The central element of these changes are revised Articles of Association for the move to sole member company status for both Horsecross and LAL.
- 3.6 The Boards of Horsecross and LAL obtained legal advice from their respective solicitors on the proposals. They both had similar concerns about the level of control which the proposed changes will give to the Council and about their perceived loss of independence. Resolution of these issues would have involved prolonged legal argument but, with some amendments to the Articles, it has been possible to set these differing views to one side and move towards agreement. The Head of Legal Services is satisfied that the compromise position is acceptable from the Council's point of view.
- 3.7 We believe that the Boards can formally consider revised Articles with their members at their respective annual general meetings. The LAL AGM is due to take place on 25 October 2012 and Horsecross' on 29 November 2012.
- 3.8 A new Governance and Accountability Framework has also been drafted, following discussions with Horsecross and LAL. This explores and clarifies three elements of the relationships between Horsecross, LAL and the Council:
- strategic interaction,
  - political scrutiny and engagement,
  - performance and contractual monitoring.

This is currently being considered by both organisations and, once agreement in principle is reached with both Boards, the final Governance and Accountability Framework will be set out for formal approval in the December 2012 update to Council. All proposed changes will be informed by, and be consistent, with good practice guidance from Audit Scotland and, the Office of the Scottish Charity Regulator.

***Future efficiencies***

- 3.9 As agreed by Council on 28 September 2011, a review is planned to explore the possibility of obtaining efficiencies through collaborative working between Horsecross and LAL. This proposal has been scoped and is about to be

submitted to Horsecross and LAL for agreement. Work will begin as soon as possible.

### ***LAL funding pressures and Horsecross contracts***

- 3.10 Discussions have taken place to address the LAL funding pressures referred to in paragraph (vi) of the recommendations in the September 2011 Report. Officers have worked with LAL to identify options for resolving these pressures which will now be considered through the Council's budget process in due course. Proposal (vii), relates to property and contractual issues over the operating of Perth Theatre and Perth Concert Hall, and an update will be provided in the December 2012 report.

### ***Planned Process of Biennial Reviews***

- 3.11 The final proposal (viii), is a commitment for a future process of biennial reviews and will be progressed and reported to Council at the appropriate time. The first review is due in September 2013.

### **General**

- 3.12 Although the negotiations have at times been challenging they have undoubtedly led to greater mutual understanding between the parties and have formed the foundation for good working relationships for the future at all levels. There is also a shared desire to move on from these discussions on governance arrangements to concentrate on service delivery issues.

## **4 PROPOSALS**

- 4.1 Subject to the agreement of their Boards and to the due process required by the current rules of Horsecross and LAL, it is hoped that the new arrangements can come into effect during the first half of 2013. That date should be clear by the time of the December 2012 report.
- 4.2 It is therefore proposed that the Executive Director (Education and Children's Services) is authorised to continue to work with both Horsecross and LAL to deliver the proposals agreed in the September 2011 Report and that a report on progress is brought to Council in December 2012.

## **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 relevant.

## **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 However, no action is required as the Act does not apply to the matters presented in this report.

## **10 CONCLUSION**

10.1 Positive progress has been made in implementing the recommendations of the Report of 28 September 2011 and in establishing positive working relationships.

10.2 Given the progress which has been made on delivering the agreed changes the Executive Director (Education and Children's Services) should be instructed to proceed to complete implementation of the new model, and to provide a report on progress to Council in December 2012 on the basis set out in this Report.

**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.

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