

FALKIRK COUNCIL

Subject: REVIEW OF FALKIRK COMMUNITY TRUST
Meeting: EXECUTIVE
Date: 17 MARCH 2015
Author: CHIEF FINANCE OFFICER

1. INTRODUCTION

- 1.1 This proposal to set up a Policy Development Panel (PDP) flows from discussion on the matter when the Trust's Business Plan was being considered by Council at its meeting on 11 January 2015.

2. BACKGROUND

- 2.1 Falkirk Community Trust (the Trust) was set up in July 2011 as a charitable company limited by guarantee to deliver culture, recreation, sports and library services within the Council area. Significant advantages were foreseen in this development, both financial in terms of non-domestic rates savings and access to external funding, but also in freeing up the organisation to adopt a more entrepreneurial approach.
- 2.2 Liaison arrangements were put in place between the Council and the Trust.
- 2.3 As the organisation has matured, this is an opportune time to take stock and review progress and consider the way forward.
- 2.4 Officers have, already, corporately undertaken a review against the checklist detailed at Appendix 2 of the Audit Scotland report, "Arm's-Length External Organisations (ALEOs): Are You Getting it Right" (the Audit Scotland report). Appendix 2 sets out a toolkit for improving the governance of ALEOs and will serve as a useful platform for the PDP to take forward its review. Both Appendix 1 and Appendix 2 of the Audit Scotland report are attached as Annex 1.

3. ARRANGEMENTS FOR THE REVIEW

- 3.1 It is proposed that the terms of reference of the PDP be to review:-
- what was the original intention of establishing the Trust and have those objectives and expectations been realised;
 - what has been achieved since its establishment in terms of service performance;
 - governance, monitoring and relationships with the Trust as a charitable company limited by guarantee;
 - financial performance and risk management issues, and

- where relevant, consideration of how other Councils manage their relationships with similar arm's length independent bodies.
- 3.2 To focus this work, it is proposed that the PDP utilises the useful framework provided by the Audit Scotland report. In particular, Appendices 1 and 2 of the Audit Scotland report provide useful check lists to assist the development of the scoping document for the PDP.
- 3.3 Appendices 1 and 2 have been prepared by Audit Scotland to provide tools for checking progress and improving the governance of Council ALEOs. The scoping document will be prepared for this Panel once its membership has been established. Once this has been agreed it is anticipated that the Panel will conclude its work by the end of the year.
- 3.4 It is anticipated that Members will also wish to consider how the PDP would look to engage with the Trust Board and its senior officers.

4. CONCLUSIONS

- 4.1 Members have intimated an interest in conducting a review of the Trust and it is believed, given the development of the Trust since its inception, allied with the challenging financial climate, now is a timely opportunity to conduct such a review. This will allow Members to consider how best the Trust can progress going forward.

5. RECOMMENDATIONS

It is recommended that Executive agree:

- 5.1 **The proposed terms of reference for the PDP and that these terms of reference will be developed by the PDP in the form of a scoping document; and**
- 5.2 **the size and membership of the Policy Development Panel**

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CHIEF FINANCE OFFICER

Date: 9 March 2015

Contact Officer: Bryan Smail

LIST OF BACKGROUND PAPERS

NIL

Appendix 1.

A tool for checking progress

Checklist to support good management of ALEOs	Assessment	Required actions/timescale
Rationale for an ALEO		
<ul style="list-style-type: none">• How clear are we on the objectives we are trying to achieve?• Are we satisfied that these fit in with the council's priorities?• Are we aware of the risks of the ALEO option on services and communities, the employees and the council?• How well do we understand any advantages of the ALEO delivery option compared to other options?• How will we know whether these advantages have been achieved in practice?		
Governance of ALEOs		
<ul style="list-style-type: none">• Are we clear how the services delivered through ALEOs are accountable to service users and citizens in general?• Do we understand how the money paid to the ALEO is accounted for?• Are we satisfied that we understand our roles on boards and committees, and know when to act on any potential conflicts of interest?• Are we aware of any conflicts in roles between council and ALEO representatives, for example in:<ul style="list-style-type: none">– scrutiny– award of funds– strategic or operational decisions?		

Checklist to support good management of ALEOs	Assessment	Required actions/timescale
Are we aware of how well ALEOs are performing, including:		
<ul style="list-style-type: none"> • How well the ALEO is meeting its objectives? • What areas perform well, and what needs improvement? • How satisfied are service users? • Is the ALEO providing value for money? • Do service levels need to be changed – and what flexibility is there to do this? 		
Are we aware of the risks faced by the council and the ALEO, including:		
<ul style="list-style-type: none"> • Is it financially sound, eg with appropriate levels of reserves? • Its ability to generate income or finance its borrowings? • What are the risks to services and the people that use them? • What are the risks to the council, eg liabilities for borrowings? • Is there a need to withhold funding or to review or wind-up the ALEO? • What are the implications for services, employees and assets if this is the case? 		

Appendix 2.

Toolkit for improving the governance of ALEOs

How well does the council ensure that effective governance and accountability is maintained when the council delivers services through ALEOs, including companies and trusts?			
	Basic practice	Basic and better practice	Advanced practice
1. How clear is the council about its reasons for delivering services through ALEOs?	<p>The decision to set up or engage with ALEOs is within the council's powers, follows an appraisal of options for service delivery and is linked to its strategic aims/policy.</p> <p>The council establishes from the start clear limits to its involvement, a timetable for achieving objectives and the circumstances in which the agreement will be terminated.</p>	<p>An overall statement of purpose is expressed in key documents.</p> <p>A regular review is carried out to ensure that the services provided by the ALEO remain aligned with the council's current objectives.</p> <p>The council identifies specific circumstances that will trigger a review of its involvement, eg changes in key personnel in the ALEO.</p>	<p>Where services are delivered through ALEOs, the council has a well-developed and soundly based strategy for the delivery of services in this manner which is clearly linked to the council's wider strategic objectives and priorities.</p>
2. How well does the council understand the financial commitment and risk to which it is exposed through ALEOs?	<p>The council defines the nature of the financial relationship, its commitment to the ALEO (shareholding, grant, loan, guarantee, etc) and contributions are not open-ended in duration or amount.</p> <p>There is a written agreement about the transfer of public assets which safeguard their title and use.</p> <p>Minimum accounting and auditing arrangements are stated in the agreement.</p>	<p>Before entering into an agreement with an ALEO, the council assesses risks and documents the results.</p> <p>Service Level Agreements or equivalent are in place which specify the financial arrangement.</p> <p>A corporate register of all financial commitments to ALEOs allows the council to assess its overall commitment to its ALEOs.</p>	<p>Risk assessment extends beyond financial risks to other areas, eg reputational risk.</p> <p>The council identifies specific governance, finance and performance indicators that give early warning of potential problems and acts when required.</p> <p>Contingency plans are in place to ensure that service delivery is maintained if the agreement ends.</p>

How well does the council ensure that effective governance and accountability is maintained when the council delivers services through ALEOs, including companies and trusts?

	Basic practice	Basic and better practice	Advanced practice
<p>3. How effective are the council's arrangements for monitoring the financial and service performance of ALEOs, maintaining accountability and for ensuring audit access?</p>	<p>The council stipulates how and at what intervals it intends to monitor financial and service performance.</p> <p>The council has identified members of staff who will monitor the ALEO's performance.</p> <p>The council ensures its external auditors have right of access to key records of the ALEO and to any explanations they consider necessary from representatives of the ALEO.</p> <p>There are no significant performance or financial concerns about the ALEO that are not being actively managed.</p>	<p>Targets (SMART) and methods of measurement are agreed and documented at the start.</p> <p>Monitoring reports provide timely and good-quality information about the ALEO's performance in delivering services and impact.</p> <p>The council scrutinises monitoring reports and follows up where performance does not meet agreed standards.</p> <p>Staff of the council responsible for monitoring the ALEO are clear about their role and are supported in it; those involved in monitoring financial performance are suitably qualified.</p> <p>Access rights for internal and external audit are covered in the agreement.</p>	<p>Monitoring extends beyond financial and service performance to employment practices, equality requirements, purchasing policies and sustainability.</p> <p>The council receives and scrutinises forward plans. The council takes a risk-based approach to monitoring and targets resources accordingly.</p> <p>Where the council is one of a number of public organisations involved in the ALEO, it ensures that liaison and monitoring of the ALEO is coordinated.</p> <p>The reasons for providing services through an ALEO and the impact are clear in reports to stakeholders, including the public.</p>
<p>4. Where members or senior officers are appointed to the board or equivalent of ALEOs, how clear are they about their role?</p>	<p>The council has considered the question of representation and is clear about why it wants representation and is transparent in its decision about which members or senior officers will be involved and why. The council has a clear policy for any payments to board members.</p> <p>Members and senior officials are properly advised of their responsibilities to the council and the ALEO, including questions of declaration of interests. They exhibit this understanding through their behaviour and performance.</p>	<p>Training and support is provided to council representatives so they are clear about their responsibilities to the council and the ALEO.</p> <p>The council has a register of interests which records potential conflicts of interest that may arise from member or senior officer involvement in the ALEO.</p> <p>Members and senior officials are effective in performing their role as board members.</p>	<p>The council safeguards itself from risks incurred by members/senior officers in their dealings with the ALEO, eg liability insurance.</p> <p>Specialist training is provided to members/senior officers, eg on company or trust law. Training continues over the period of the member/senior manager involvement and impact of training is measured.</p> <p>The council reviews representation in ALEOs, makes changes in light of experience and considers rotating representation.</p>