

The background of the slide features the Falkirk Council Coat of Arms. It is a shield divided into four quarters. The top-left quarter shows a saltire (X-shaped cross) on a blue field. The top-right quarter shows a stag's head facing left on a blue field. The bottom-left quarter shows a three-masted sailing ship on a blue field. The bottom-right quarter shows a lion passant guardant on a blue field. Above the shield is a crown with four fleurs-de-lis. Below the shield is a ribbon with the motto 'A'NE FOR A'.

AGENDA ITEM

6

FALKIRK COMMUNITY TRUST POLICY DEVELOPMENT PANEL – INTERIM CONCLUSIONS

FALKIRK COUNCIL

Subject: FALKIRK COMMUNITY TRUST POLICY DEVELOPMENT PANEL – INTERIM CONCLUSIONS
Meeting: EXECUTIVE
Date: 7 June 2016
Author: DIRECTOR OF CORPORATE AND HOUSING SERVICES

1. INTRODUCTION

1.1 This report sets out the interim conclusions and recommendations of the Policy Development Panel established by the Executive to review the Falkirk Community Trust – the reasons behind setting it up, its Governance and relationship with the Council and the relationship between the Council and the Trust going forward.

1.2 The PDP consisted of the following members

- Councillor C Martin - Chair
- Councillor M Nicol
- Councillor J McLuckie
- Councillor G Hughes
- Councillor S Jackson

1.3 The work of the Panel was supported by the following officers throughout its work, though not all officers were able to attend all meetings of the Panel:

- B Smail, Chief Finance Officer
- F Campbell, Head of Policy, Technology and Improvement
- B Pirie, Democratic Services Manager
- I Henderson, Legal Services Manager
- A Wilson, Policy and Community Planning Manager
- D Cairney, Accountancy Services Manager

1.4 The remit of the panel was to consider:-

- the original intention of establishing the Trust and whether those objectives and expectations have 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, how other Councils manage their relationships with similar arm's length independent bodies

1.5 The Chair of the Panel recognises the input of the Trust to this PDP and also successful services delivered by the Trust since its establishment.

2. THE WORK OF THE POLICY DEVELOPMENT PANEL

2.1 To address the review's scope the Panel set a challenging programme of work which was divided into two key phases. The first focussed on understanding the background to the establishment of the Trust, understanding how the Trust was organised and the challenges and opportunities facing the Trust going forward, including national policy directions. This phase also included feedback from the Citizen's Panel on their views of the Trust and its engagement with local communities. The second phase included finding out from other local authority areas how they were organised to deliver similar, though not the same, range of services, the challenges they had faced and how they had changed to meet their emerging needs.

2.2 This phase of work also included meeting with a small number of local stakeholders and understanding the pressures and challenges the Trust has faced since its establishment including the delivery of the Helix which has added to the Trust's remit following its establishment.

Background to the Trust

2.3 The first meeting presented the Panel with a range of background material. This included reports on the set up of the Trust, its business plan, Accounts Commission reports on arms length organisations, as well as other critical pieces of information. This background was referred to throughout the work of the Panel. In addition the first meeting including a presentation by officers of the Council which covered the following issues:

- Governance
- Rationale for and objectives of the Trust
- Other options for the ALEO
- Summary of the Trust framework
- Charitable status of the Trust including OSCR guidance and overview
- Conflict of interest

2.4 *Overview and background to the financial arrangements between the Council and the Trust*

- Nature of the financial relationship
- Accounting for money paid to the Trust
- Trust financial position – is the Trust financially sound?
- Monitoring of financial performance
- Consideration of Council budgetary pressures
- Consideration of risks to the Council e.g. liabilities for borrowings

2.5 *Performance Overview*

- Performance and achievements of the Trust
- Are objectives being achieved?
- How do these objectives fit with Council priorities?
- Monitoring arrangements with the Trust
- Governance, delivery and future

2.6 The second meeting invited the Trust itself to present to the panel. This presentation was undertaken by the Chair, Chief Executive and General Manager and covered the following issues:

- The structure of the Trust and how this has changed since its establishment to reflect priorities
- Arrangements and relationship with the Council
- OSCR Guidance for charitable bodies – what regulations govern the Trust and its business
- Roles on the Trust Board and committees and understanding of these
- Accountability and engagement with customers / service users and citizens
- Accountability for the money paid by the Council to the Trust
- Trust's ability to generate income – actual and potential
- Where does the Trust expect to be in 5-10 years and what financial models will support this?

Relationship between the Trust and Council

2.7 The next meeting of the Panel was held in private and was a roundtable discussion among the panel, independent members of the Trust, including its chair, along with the Council's portfolio holder for culture, leisure and tourism. The meeting was established to explore the roles and relationships between the various parties – challenges and opportunities.

2.8 In addition to the above, a small number of support officers were in attendance. This meeting was held in private to allow a candid discussion of challenges and opportunities. However, attendees were advised that notes were to be taken which form part of the evidence base for this report and recommendations.

2.9 At the same time, members of the panel wanted to explore the public's perception of the Trust, its engagement with them and their knowledge of the services it provided. This was undertaken through a Citizens Panel questionnaire. The results of this were fed into the panel during phase two of its deliberations.

Sector Perspective

2.10 The last meeting of the Panel prior to meeting after the budget, was with external organisations. The purpose of this session was to learn about different approaches to service delivery and understand approaches to strengthen arrangements, practices and relationships. National organisations were invited to present the panel with the key opportunities and challenges facing their sectors in the short, medium and longer term, alongside any risks and mitigating actions.

2.11 The organisations the Panel met with were:-

- sportscotland
- National Libraries
- Creative Scotland

Phase Two

Perspective from other Councils and ALEOs

- 2.12 As noted above, this phase focussed on learning from other local authority areas about the arrangements and relationships they have with their delivery partners.
- 2.13 Three other ALEOs were identified to visit – Dundee, Glasgow and North Ayrshire. In the end only two were visited – Dundee and Glasgow. It was simply not possible to organise the visit to North Ayrshire at a mutually convenient time. The visits looked at
- Experience of other Councils in managing their relationships with similar ALEOs;
 - Experience of other ALEOs and how they manage their relationship with their Councils alongside meeting the pressures of service delivery;
 - How finances stack up; and
 - Community benefits.
- 2.14 The key message from both of these visits was the need and benefit of having close and positive working relationships in place between the Council and its ALEO. There is an integration of senior management from the Glasgow and Dundee trusts with the Council teams in core thematic areas and reporting and liaison arrangements are in place at senior management level. In addition, and while it is the exception across culture and leisure Trusts generally and not recommended by OSCR, the Chair of the Board in the Glasgow and Dundee Trusts is a senior Councillor.
- 2.15 A review meeting was held after these visits to agree timescales for reporting and to consider the decision by Council to expand the remit of the PDP to include a review of the Trust's assets and service delivery.
- 2.16 It was agreed at that meeting that the PDP wanted to put an interim report to the Executive before the recess. It was agreed therefore that further work of the PDP regarding review of assets and service delivery would be taken forward as a further phase of the PDP with a view to reporting on that in autumn 2016.
- 2.17 The additional work agreed by Council is attached at appendix one.
- 2.18 It was felt necessary to meet with local stakeholders to understand their relationship with the Trust since its establishment. The main focus of this meeting was on communication, engagement and partnership with the following bodies contributing to the discussion:
- Sports Council
 - Friends of Kinneil
 - Falkirk Arts and Civic Council

The HELIX

- 2.19 This meeting allowed a discussion over a significant area of work taken on by the Trust following its initial establishment. Consideration took place over how the Trust's functions have changed over the years, what comes within the scope of the Trust, the work undertaken by the Trust at the Helix, the relationships among the partner organisations, the funding arrangements and responsibilities and recommendations going forward.

2.20 The following were asked to present at this meeting:

- Development Services – background and history;
- Trust – taking over – issues, challenges, opportunities and future plans;
- Scottish Canals – challenges, opportunities and future plans.

2.21 It was agreed at that meeting that an additional session would be held to hear from the Chief Executive of the Trust about her views on the roles, relationships with the Council and other partners moving forward. This meeting would pick up on some of the issues that the PDP had been considering be included as part of the formal recommendations to the Executive. Unfortunately this meeting did not take place in the time required to present this report to the Executive.

2.22 In summary, the Panel did a significant amount of investigation and enquiry on the areas covered by its terms of reference. Members of the Panel were, however, conscious that the recommendations for change need to be discussed and then progressed in partnership with the Trust itself.

3. AREAS OF CONSIDERATION

3.1 The work of the Policy Development Panel was very wide ranging and, as can be seen from the sequence of meetings above, considered a broad range of issues.

3.2 At the time of establishing the Trust, there were clear and compelling arguments for doing so. These included:

- Tax reliefs for which charitable bodies are eligible;
- Access to funding which would be difficult for a local authority;
- New opportunities with potential for new partners and funders;
- The ability to have a singular focus on community facing service provision; and
- Community involvement on the managing body by people willing to devote their time voluntarily.

3.3 In establishing the review of the arrangements around the Council's relationship with the Trust, it was acknowledged that this way of working was new for all participants. It was a new way for the Council to deliver services of such scale and also new for those involved in the Trust including Board Members, both independent and Council appointed. The Panel acknowledged the commitment both Board Members and Officers had given to establishing and delivering the services through establishment of the Trust to the present time.

3.4 The Panel reflected on the challenges the Trust faced in delivering services including market changes, customer expectations, the balance of services provided, the nature of the facilities operated by the Trust and also the continued challenge of reductions in Council funding. The Panel acknowledged that the Trust delivered a diverse range of services some of which could attract income and some which were very unlikely to do so.

- 3.5 There were a number of issues that emerged through the process of the PDP and are summarised below.

Governance

- 3.6 The PDP heard during the course of its deliberations about:

- the establishment of the Trust
- the Charity Regulator's view of arms length organisations at the time of establishment
- the legal advice the Council received at the establishment of the Trust
- how other Councils had established similar ALEOs and the changes they had made to those arrangement over time including in relation to:-
 - developing closer relationships with their parent Councils
 - the role of elected Members on the Trust Board and also on other in the ALEOs
 - the role of independent Board members, their term of office, support, training and appointment;
 - the degree of accountability of the ALEOs to the Council directly ; and
 - the clarity of common purpose between ALEOs and their parent councils.

- 3.7 From all the discussions it was clear that whatever governance arrangements were in place it was important to have clarity of vision and a very close relationship between the Council and the ALEOs. This transcended process, reporting and accountability with each party having a clear understanding of what needed to be achieved and how working together could be facilitated.

- 3.8 It was acknowledged that one of the compelling reasons for establishing the Trust was to make savings in two ways. The first is through rates relief which had been achieved on the establishment of the Trust and through the assets the Trust uses. The second way was through the ability to generate and attract external income. There was less confidence that external funding was being maximised, though it was acknowledged that income from sales in some areas had been increased.

- 3.9 It was clear that there are significant challenges facing both the Council and Trust. However, if outcomes are to be achieved it is imperative that there was a mutual understanding of each other's role in delivering outcomes, a mutual respect and also common purpose. This collegiate approach is essential moving forward if we are to address the challenges facing both organisations.

- 3.10 The Panel considered that given the Trust had been in existence for some years there was a need to engage with the Board of the Trust to review how it works to align its priorities and direction with that of the Council.

Communication and Engagement

- 3.11 A common element that was recurrent throughout the PDP's deliberations was the need for good and sustained communication. This included communication between the board and the Council but also between the Trust, communities and stakeholders. There were examples of excellent communication but recurring issues were the need for good communication and more broadly engagement with other partners, communities and stakeholders needing to improve.

- 3.12 It was felt that despite numerous arrangements being in place for the Trust to report to the Council on its performance that communication and engagement needed to be improved. This should not mean additional reporting burdens but rather more informal, constructive and early engagement on issues between the Council i.e. Members and Officers and the Trust i.e. Board Members and Officers.
- 3.13 A number of issues were raised by various stakeholders regarding working with the Trust and Council in shaping responses to future service delivery. This needs to be further developed i.e. working with other national etc. stakeholders. It was acknowledged that the Community Empowerment (Scotland) Act 2015 and its requirement for locality planning gives an opportunity for more sustained community and local engagement and therefore the Trust's engagement in this work is critical.

Service Delivery

- 3.14 While the PDP did not specifically look at service delivery, it did consider some aspects of this as its work progressed. The PDP had meetings with national bodies to find out the issues that were facing their sectors i.e. libraries, arts and sports, the challenges they faced and opportunities for the future. Also, during the visits to other areas, the PDP looked at different issues facing particular areas of service delivery including libraries, sports facilities etc.
- 3.15 It was noted that each sector i.e. sports; libraries etc. was seeking to diversify and deliver services in different ways. It was clear that in order to change the model of provision there was a need for investment in change. This was very evident in Dundee where the Council had invested significantly in new facilities. It was recognised that the Council had already invested in some aspects of the Trust including sports facilities in Stenhousemuir and with other more recent decisions. However, future investment had to be linked to a clear business case given the challenging financial pressures the Council is working under.
- 3.16 Again, there are opportunities for the Trust to explore new models of delivery. It was understood that these models may include fairly fundamental changes in the way services are delivered but that having a compelling vision for those within the context of a local community was critical. It is understood that the Trust is developing a range of development plans to underpin its overarching strategy which presents an opportunity for setting out clearly the vision for change and process for achieving this.
- 3.17 One issue which the Panel considered was the need to secure external funding to support services while recognising that this had the potential to divert efforts away from delivering services. Issues of the level of public subsidy were also considered – recognising that different aspects of the business had varying abilities to raise income. There was a need to look at options for raising income including charges, donations etc. etc.

4. CONCLUSIONS

- 4.1 This report gives a very short and concise summary of the work of the Panel. It highlights the main areas emerging that require to be addressed going forward without focussing on specific areas where the Council might want change or improvement. As noted in the first section of this report the Panel's remit was to consider:

- the original intention of establishing the Trust and whether those objectives and expectations have 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, how other Councils manage their relationships with similar arm's length independent bodies

4.2 In coming to its conclusions, the PDP appreciates that any recommendations it puts forward to the Executive potentially impact on an external independent body. As such the PDP has put forward areas for discussion with the Trust with a view to engaging the Board and Officers of the Trust on how areas of consideration can be addressed and taken forward. These discussions will be informed by the work of the PDP and thus it is recommended that the Executive commissions the PDP, along with the portfolio holder for Culture, Leisure and Tourism, to engage with the Board of the Trust on the outputs of the PDP with a view to reporting back to the Executive in the Autumn on the outcome of those discussions including an improvement action plan.

4.3 Given these discussions are critical in the future direction of relationships between the Trust and Council, it is proposed that an external and independent party is appointed to facilitate and advise both parties on ways relationships and governance can be improved.

4.4 The areas that the discussions will cover include:-

- Governance
 - How can the Council and the Trust develop closer links
 - Role of the Board including roles, accountabilities, skills and training of Council appointed board members;
 - Role of independent board members including skills, training, term of office etc;
 - Openness and transparency of the Board – can and should this be improved?
- Increasing external funding and income
 - What is an optimal ratio of Council to external funding, having regard to the mix of services provided by the Trust and the funding streams available?
 - Challenges and opportunities for increasing external funding;
 - What are the factors that constrain income generation?
 - What could the Council do to support the Trust re income generation?
- Accountability and responsibility for the Trust to the Council
 - How can communication improve?
 - How can the Council and Trust be closer aligned in terms of vision, policy and strategy development;
 - Links between the CMT of the Council and the Trust's senior management;
 - Closer relationship and common purpose between the Trust and Council;
 - How can this happen and develop?

- Engagement with the community and stakeholders
 - How does the trust take this forward and how can this improve?
- Vision and planning for services over the coming years
 - What is the vision for future service delivery and how does the Trust engage Members in shaping and informing this?
 - How does the Trust engage more fully with community planning partners and the Council in delivering services to meet local needs in the context of locality planning etc?

5. FINANCIAL IMPLICATIONS

- 5.1 Should the Executive agree to the appointment of external and independent support for the panel as set out in paragraph 4.3 above there will be a cost implication. This will be met from current budgets.

6. RECOMMENDATIONS

It is recommended that the Executive:

- 6.1 **Note the interim findings of the Policy Development Panel;**
- 6.2 **Agrees that the Panel engages with the Trust on the issues arising from it's work as set out in paragraph 4.4 above;**
- 6.3 **Approve the appointment of external and independent support for the Panel in taking forward discussions with the Trust; and**
- 6.4 **Agree that the Panel report back to the Executive in the autumn on those discussions along with its findings as per the Council decision in January 2016.**

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DIRECTOR OF CORPORATE & HOUSING SERVICES

Date: 2 June 2016

Ref ABB0616FC

Contact Officers: Fiona Campbell, Iain Henderson, Brian Pirie

LIST OF BACKGROUND PAPERS

1. Background Papers presented to the Panel including business case, business plan, Accounts Commission Report, Charities Regulator Guidance etc.
2. Report to the Executive establishing the Policy Development Panel

**EXTRACT OF COUNCIL MINUTE FROM DECEMBER 2015
FALKIRK COMMUNITY TRUST - BUSINESS PLAN 2016/17**

Council considered a report by the Chief Executive setting out Falkirk Community Trust's proposed Business plan for 2016/17.

The Funding Agreement between the Council and the Trust requires that the Trust submits, annually, a Business Plan for the following financial year for approval by the Council. The Business Plan was contained within a briefing note by the Chief Executive of the Trust, which was appended to the report, as was the Trust's draft Action Plan, the draft Helix Business Plan and the Trust's fees and charges proposals.

The Funding Agreement requires that both parties engage in initial dialogue in regard to the Trust's proposals prior to Council's final approval of the plan. Council can request further information and propose amendments for consideration by the Trust. The Trust had been asked by Council to identify savings of £1.2m. These were grouped into 3 categories:-

- ☐ Income generative & growth;
- ☐ Efficiency savings; and
- ☐ Service reductions.

Within the £1.2m savings were 10 areas of service reductions which, if implemented, would achieve £930k in savings.

The report set out the impact on the Council's budget of proposals in regard to Hallglen Sports Centre, Denny Football Centre, Grangemouth Town Hall, Woodlands Games Hall and The Steeple. The proposed facility withdrawals were predicted to achieve £218k of savings; however Council could incur a loss of rates relief amounting to £121k.

The proposals were noted as coinciding with a review of the Council's asset portfolio and a more strategic review of all assets was proposed to be co-ordinated by the already established Policy Development Panel.

The Trust's capital proposals were also set out in the Business Plan. Those which relate to building works would be the responsibility of the Council, as landlord, in terms of the leases and property licence. It was proposed that the strategic review of facilities would include consideration of future capital investment requirements.

Councillor Mahoney, seconded by Baillie Paterson, moved that:-

- (1) the Trust is requested to consider and provide to the Council revised draft Business Plans for 2016/17 removing its proposals for facility withdrawal (at Grangemouth Town Hall, Hallglen Sports Centre, Denny Football Centre and Woodlands Games Hall) and the associated proposed savings of £218k which savings shall be deferred for consideration in 2017/18 following the strategic assessment referred to in paragraph 2 below. It is requested that the Trust provide revised draft Business Plans within a timescale consistent with the Council being able to consider them at the Council Budget meeting on 17 February 2016;
- (2) a strategic assessment of the Trust's service delivery and property portfolio is conducted which will interface with review of the Council's own asset portfolio. The policy development panel established by the Executive to carry out a review of the Trust is

requested to co-ordinate the strategic assessment in parallel to its on going work allowing for significant input by and liaison with the Trust and relevant Council officers. It is anticipated that the strategic assessment would be finalised by around the end of August 2016 for consideration by members and would feed into the 2017/18 budget process;

- (3) full Equalities and Poverty Impact Assessments be provided by the Trust to the Council in relation to the proposals in the revised draft Business Plans for consideration by the Council before any final decisions are taken by the Council on the revised draft Business Plans; and
- (4) the Council's Spend to Save reserve may be applied to assist the Trust consistent with paragraph 3.2 of the report.

Council then adjourned at 12.05 pm to allow members of the Opposition to consider the terms of the motion and reconvened at 12.20 pm with all members present as per the sederunt. As an amendment, Councillor Meiklejohn, seconded by Councillor Jackson, moved in substitution for the motion that:-

Following recent revelations we have serious concern that the Trust cannot meet its stated objectives as set out when it was established.

Council therefore calls for an urgent review to be completed in time to feed in to the 2016/17 Budget (circa end Jan) to be carried out of the Trust and its ability to remain sustainable before any agreements are reached on the business plan and setting of 2016/17 Budget. No further actions taken to progress business case until outcome of Review.

Following further discussion, and on a division, 18 members voted for the motion and 14 voted for the amendment, with voting as follows:-

For the motion (18):- Provost Pat Reid; Depute Provost Patrick; Baillies Buchanan and Paterson; Councillors Black, Blackwood, D Goldie, G Goldie, Gow, MacDonald, McLuckie, Mahoney, C Martin, Dr CR Martin, Murray, Nicol, Nimmo and Spears.

For the amendment (14):- Councillors Alexander, Balfour, Bird, Carleschi, Chalmers, Coleman, Garner, Hughes, Jackson, McCabe, Meiklejohn, Oliver, Ritchie and Turner.

Decision

Council agreed:-

- (1) to request that the Trust considers and provides the Council with revised draft Business Plans for 2016/17 removing its proposals for facility withdrawal (at Grangemouth Town Hall, Hallglen Sports Centre, Denny Football Centre and Woodlands Games Hall) and the associated proposed savings of £218k which savings shall be deferred for consideration in 2017/18 following the strategic assessment referred to in paragraph 2 below. It is requested that the Trust provide revised draft Business Plans within a timescale consistent with the Council being able to consider them at the Council Budget meeting on 17 February 2016;**

- (2) that a strategic assessment of the Trust's service delivery and property portfolio is conducted which will interface with review of the Council's own asset portfolio;
- (3) that the policy development panel established by the Executive to carry out a review of the Trust is requested to co-ordinate the strategic assessment in parallel to its ongoing work allowing for significant input by and liaison with the Trust and relevant Council officers. It is anticipated that the strategic assessment would be finalised by around the end of August 2016 for consideration by members and would feed into the 2017/18 budget process;
- (4) that full EPIAs are provided by the Trust to the Council in relation to the proposals in the revised draft Business Plans for consideration by the Council before any final decisions are taken by the Council on the revised draft Business Plans; and
- (5) that the Council's Spend to Save reserve may be applied to assist the Trust consistent with paragraph 3.2 of the report.