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## **NORTH AYRSHIRE COUNCIL**

**25 September 2018**

### **Audit & Scrutiny Committee**

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<b>Title:</b>	Audit Scotland: Councils' Use of Arm's-length Organisations
<b>Purpose:</b>	To inform Audit and Scrutiny of Audit Scotland's report on councils' use of arm's-length organisations (ALEO), published on 17 May 2018.
<b>Recommendation:</b>	<p>It is recommended that the Audit and Scrutiny Committee:</p> <ul style="list-style-type: none"><li>a) Notes the findings of the Audit Scotland report on Councils' Use of Arm's-length Organisations; and</li><li>b) Notes that North Ayrshire Council is well placed in terms of meeting the findings and recommendations of the report in relation to good governance and managing risk in its relationship with its</li></ul>

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## **1. Executive Summary**

- 1.1 Audit Scotland's report on councils' use of arm's-length organisations (ALEO) was published on 17 May 2018. The report provides an overview of local authority use of ALEOs including the rationale for their use, their governance and achievements.
- 1.2 The report looked at four elements:
  - How councils use ALEOs;
  - How councils oversee and govern ALEOs;
  - What ALEOs have achieved; and
  - The future direction of ALEOs.
- 1.3 Recommendations include:
  - The need for options appraisals to ensure value for money, the contribution of ALEOs to achieving councils' objectives and priorities, as well as risk; and
  - Performance management.

1.4 The report concludes that councils must keep ALEOs under review and continue to

1.5 Placing this in a North Ayrshire perspective, the current report concludes that North

Ayrshire is well placed in meeting the findings and recommendations of the report in relation to its single ALEO, North Ayrshire Leisure Limited (KA Leisure).

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2.1 An Audit Scotland report on Councils' use of arm's-length organisations (ALEO) was published on 17 May 2018. The report provides an overview of local authority use of ALEOs including their governance and achievements. Audit Scotland examined practice across a sample of councils and drew on the finding of relevant audit activity in order to highlight key messages in relation to ALEOs for all councils. North Ayrshire has one ALEO, KA Leisure.

The full report can be found at [http://www.audit-scotland.gov.uk/report/councils-use-](http://www.audit-scotland.gov.uk/report/councils-use-of-arms-length-organisations)

2.2 [of- arms-length-organisations](http://www.audit-scotland.gov.uk/report/councils-use-of-arms-length-organisations).

2.3 How councils use

2.3.1 The report finds that ALEOs take many forms. These include:

- Companies
- Community enterprises; and
- Trusts

About half have been set up as registered charities. Services they deliver include leisure, culture, transportation, property development and care services.

2.3.2 KA Leisure is a non-profit making organisation recognised as a Scottish Charity and has been established to deliver a sport and leisure service to the community residing in North Ayrshire and visitors to the area.

2.3.3 Almost all Scottish councils use ALEOs but they vary in size, function and structure and the report concludes that there are inconsistencies in how councils identify them and make information about them available. Well over half of Scottish councils use ALEOs to deliver sports and leisure and cultural services, around twenty use them for economic development and regeneration, but only three (Glasgow, Aberdeen and the Scottish Borders) use them for social care services.

2.3.4 Audit Scotland estimate that in 2015 spending through ALEOs totalled over £1.3 billion, and for the largest user, Glasgow City Council, ALEOs accounted for around a quarter of all spending.

2.3.5 The statutory duty of Best Value introduced by the Local Government in Scotland Act 2003,

which requires councils to demonstrate continuous improvement in service delivery, has been a major driver for the development of ALEOs. In general, councils see ALEOs as a good compromise between providing services themselves and outsourcing to the private

2.3.6 The report identifies the potential benefits as:

- Tax reductions for charitable organisations including relief on non-domestic rates (reducing councils' bills by around £45 million a year, although there is no overall saving to the public purse);
- The ability to generate income from additional services and attract new income from external funding, donations, sponsorship or loans;
- Strong service or commercial focus as a smaller organisation under the direction of a dedicated board, which may include community and industrial representatives bringing wider experience and new perspectives; and
- The ability to foster positive working relationships with a "trusted partner" and, where a charity is formed, to safeguard against an overly commercial approach.

2.3.7 Audit Scotland recommends that in deciding whether an ALEO is the best way to provide services over the longer term, while providing value for money, councils should:

- Examine wider options that can bring similar benefits such as reorganising an existing service, sharing services or involving the local community;
- Demonstrate how ALEOs help the council meet its objectives and improve outcomes for their communities;
- Set clear criteria for reviewing an ALEO, considering risks, performance and how it fits with council priorities; and
- The need to continue to apply Following the Public Pound principles in relation to ALEO oversight, board appointments, managing conflicts of interest, having an active role in contract or service level agreement compliance and ensuring that information on ALEO funding and performance is publicly available.

2.3.8 At its budget of 17<sup>th</sup> February 2016, North Ayrshire Council agreed to explore transferring the delivery of a range of services and leasing properties to an arms-length external organisation (ALEO), thus saving in non-domestic rates (NDR) and reducing the impact of required efficiencies on Connected Communities services.

2.3.9 The critical objectives of the Council within the project were to retain influence over the strategic direction of the new entity, while at the same time delivering the required financial advantages required of such a reorganisation.

2.3.10 An options appraisal (using the Audit Scotland options appraisal methodology)

considered a range of scenarios associated with transferring services to an arms-length external organisation.

2.3.11 The Options Appraisal methodology consisted of two stages:

- Option 1: To create a separate cultural ALEO to sit alongside the existing NALL leisure ALEO.
- Option 2: To expand the existing leisure ALEO (NALL) to include Connected Communities services and create a multi-service ALEO
- Option 3: To dissolve the current leisure ALEO (NALL) and design a completely new multi- service ALEO incorporating leisure and cultural services.

Stage 2 considered the options for ALEO membership and the most appropriate and financially advantageous legal structure.

No clear recommendation emerged which allowed the Council to meet both of its critical objectives: to retain influence over the strategic direction of the new entity, while at the same time delivering the required financial advantages required of such a reorganisation.

## **2.4**

2.4.1 The report emphasises the need for clear oversight and close monitoring of ALEOs and, regardless of any representation on boards, regular reporting mechanisms need to be established and maintained. The report finds that all the sample councils had appropriate governance arrangements in place and the most effective practice included scrutiny proportionate to the risks involved and clear roles and responsibilities for councillor and officer oversight.

2.4.2 There can be risks of conflicts of interest where councillors and officers become ALEO board members, and those conflicts can become more evident if an ALEO encounters difficulties. Legislation requires board members or trustees to act in the best interests of the company or trust they serve which may not coincide with their duties to the council. Whilst across most council officers and councillors can still take board positions, it is becoming less common to involve officers and practices differ. The report suggests that, where required, conflicts of interest may be reduced by secondments to ALEOs with council representatives taking monitoring or liaison roles as an alternative to board positions.

2.4.3 A Board of Directors, who are all active supporters of local leisure facilities, manage KA Leisure. Directors are drawn from the local community, local business, sport, North Ayrshire Council and employees of KA Leisure. Members of the Board contribute knowledge and expertise to the operation of the services, which will allow for future development. Day to day management experience is devolved to an experienced senior management team.

- 2.4.4 KA Leisure works in close partnership with North Ayrshire Council, NHS and other relevant public and private sector organisations to develop the highest possible level of service to
- 2.4.5 KA Leisure reports annually to North Ayrshire Council in relation to business planning, impact and outcomes and finance.
- 2.4.6 An Audit Scotland review of KA Leisure three years ago established the appropriateness and effectiveness on the overall approach in North Ayrshire, including rationale, governance and outcomes. This is continually reviewed through regular planning and monitoring meetings and annual reports and presentations to Cabinet.

## **2.5 What ALEOs are**

- 2.5.1 The report finds that the diversity of services provided and the range of vehicles used makes comparisons between ALEOs difficult, but the report concludes that benchmarking, financial returns and case studies have highlighted some definite trends. Over three-quarters of Scottish councils provide sports and leisure services through ALEOs, with expenditure totalling £430 million in 2016/17. Analysis shows that overall net costs per visit reduced by 15% between 2010/11 and 2016/17, visits per year went up by 20% and satisfaction with sports facilities went down only marginally from 82% to 79%. The trends in the seven councils that do not use ALEOs to deliver sports and leisure services are less marked. Costs for these have reduced by 9%, uptake has increased by only 10% and satisfaction rates are lower at 66%.
- 2.5.2 Over the past six years, KA Leisure membership levels have risen from 1,546 in 2011/12 to 9,208 in 2016/17 - an increase of 496%. 2017 saw the transfer to new facilities and visits to leisure centres increased by 18% over the year, illustrating the success of the new leisure centre provision. There has been a 25% increase in attendances since the move to the Portal from the Magnum; and a 98% increase in Garnock Campus attendances. 2018-19 has seen the opening of Largs Community Campus and the transfer of KA Leisure administration to the new office facilities in Irvine. In North Ayrshire, there has been an
- 2.5.3 The North Ayrshire CPP Active Communities Strategy was launched in 2016 and provides strategic direction and leadership across a broad range of partners to realise the vision
- 2.5.4 A population engagement initiative (DREAM: Drop Everything and Move) was created which aims to inspire, enthuse and support everyone across North Ayrshire to become active and bring the vision to life. It is focused on 3 key strands: *Active, Involved and Inspired*, which promotes and provides fun social activities thus encouraging

- 2.5.5 Active North Ayrshire (ANA), the Exercise on Referral Programme provides supported physical activity opportunities to individuals at risk of or recovering from health conditions or disabilities and those who are not currently engaged in physical activity to help support them towards a healthy active lifestyle. An opportunity to undertake an impact evaluation of ANA provided valuable evidence to demonstrate the contribution this makes to the national physical activity and health agenda and better demonstrate the impact on individuals and local community priorities. An estimated £1 investment to a £5.45 social return on investment resulted, with 41,500 annual attendances, 16 referring partners and more than half of the participants from the most deprived postcodes in North Ayrshire.
- 2.5.6 KA Leisure is passionate about using fun social physical activity opportunities as a mechanism to engage and empower communities across North Ayrshire to achieve physical and mental wellbeing and is dedicated to promoting the benefits and positive effect physical activity has on mental health. As a Legacy 2014 Physical Activity fund partner KA developed Mind and Be Active (MBA), a community project which aims to improve mental health and wellbeing through supported physical activity opportunities. A Legacy 2014 Physical Activity fund partner, the programme has 5,000 annual attendances, 94% of participants are of working age, 64% are women and there have been 285 referrals
- 2.5.7 Further areas of particular success have included early years work, including Balanceability, Splash 'n' Story and Baby Ballet; new fitness offers, including workplace support; new aquatics programmes including lessons and swimming clubs; employability programmes, including with Ayrshire College; and accreditation programmes with
- 2.5.8 Outdoor activities continue to flourish, although weather conditions continue to affect overall numbers. Cross country, KA Walk, Junior Parkrun and the golf offer have been introduced and in the case of golf, rebranded, to stimulate interest. Junior golf programmes, activities and offers have been introduced in conjunction with the recent international golf events in North Ayrshire to ensure a legacy from this.
- 2.5.9 Sector leading activities over the reporting period include an invitation to act as an ambassador for the national Legacy 2014 Physical Activity Fund and to support the development of a digital toolkit entitled Thrive. Thrive is a digital toolkit for practitioners that's brings together the learning experience in relation to what works when encouraging inactive people to become active. Following a successful funding application KA received notification in September that they have been awarded £25,000 by the Sporting Equality Fund managed by Spirit of 2012 to deliver a project in 2018 aimed at engaging girls and young women in physical activity to improve physical and mental wellbeing.
- 2.5.10 The three social care ALEOs (in Glasgow, Aberdeen and Scottish Borders) have all improved the quality of the services they provide, but user satisfaction is no better than in other areas. However, the report has identified a number of innovative and responsive
- Cordia working in partnership with Glasgow's education service to develop a new food policy to encourage pupils to avoid fast food outlets

- In Aberdeen, a 35% reduction in the use of agency staff and training 187 care staff to encourage greater independence among older people and reduce demand for planned care.
- 2.5.11 The report finds that the effectiveness of more commercial ALEO activities is difficult to assess with both successes and failures being experienced, with some failures of property management ALEOs directly attributable to the 2012 downturn in the commercial property market.

## **2.6 The future direction of**

- 2.6.1 The report finds that ALEOs remain an important option for Scottish councils to help to sustain services and encourage innovation at a time when financial and demand pressures remain challenging. Decisions on continuing or closing ALEOs need to be objective and consistent with the requirements of Best Value and the focus must remain on outcomes rather than the method of delivering the service. As always, good management remains the key to success.
- 2.6.2 The report highlights that the context in which ALEOs operate is changing. The implementation of one of the recommendations of the Barclay Review means that relief from non-domestic rates will not be available for new or expanded ALEOs and councils will need to look to closer involvement with businesses and communities, perhaps through creating separate business units or social enterprises. The Community Empowerment (Scotland) Act 2015 brings a stronger impetus for communities to have a greater role in delivering services and some recent options that appraisals have considered using are community enterprises rather than ALEOs to deliver services.
- 2.6.3 The report finds few examples of councils using ALEOs to provide services jointly across local authorities. Lothian Buses, which operates across Edinburgh, East Lothian, Mid
- 2.6.4 Finally, the report concludes that financial constraints may limit council's ability to fund ALEOs that, in turn, may limit their ability to invest and achieve the income and benefits anticipated when they were set up. Financial constraints are already leading to mergers between leisure and culture ALEOs to cut costs. As ALEOs evolve and adapt, councils will need to constantly monitor their viability and carefully consider alternatives where they no longer meet their original objectives.

## **3. Proposals**

- 3.1 It is proposed that the Audit and Scrutiny Committee notes the findings of the Audit Scotland report on Councils' Use of Arm's-length Organisations.
- 3.2 It is proposed that the Audit and Scrutiny Committee notes that, overall, North Ayrshire Council is well placed in terms of meeting the findings and recommendations of the report in relation to good governance and managing risk in its relationship with KA Leisure, and in its recent approach to options appraisal as highlighted above.

## 4. Implications

<b>Financial:</b>	There are no financial implications contained within the present report.
<b>Human Resources:</b>	There are no human resources implications contained within the present report.
<b>Legal:</b>	There are no legal implications contained within the present report. However, the report does highlight the risks which continually be under review where councils use ALEOs to deliver services.
<b>Equality:</b>	There is no suggestion that the use of ALEOs is a risk to equalities groups. In North Ayrshire, KA Leisure has a strong positive focus on reducing inequalities.
<b>Children and Young People:</b>	Children and young people are a key priority of KA Leisure, who are a partner in all of the CPP and Council's children's work.
<b>Environmental &amp; Sustainability:</b>	There are no environmental and sustainability implications contained within the present report.
<b>Key Priorities:</b>	The proposals contained within the report support the North Ayrshire Council Plan 2015-2020 priorities: <ul style="list-style-type: none"><li>• Priority 1 Growing our economy, increasing employment and regenerating towns;</li><li>• Priority 2 Working together to build stronger communities;</li><li>• Priority 3: Ensuring people have the right skills for learning, life and work;</li><li>• Priority 4: Supporting people to stay safe, healthy and active.</li></ul>
<b>Community Benefits:</b>	There are no community benefit implications in this report, however, there may be opportunities during future procurement.

## 5. Consultation

- 5.1 Audit Scotland consulted with selected local authorities and ALEOs in the preparation of the report.



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For further information please contact **Audrey Sutton, Head of Service (Connected Communities)** on **(01294) 324414**.

**Background Papers**

[http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr\\_180518\\_councils\\_aleos.pdf](http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf)