

EAST RENFREWSHIRE COUNCILAUDIT AND SCRUTINY COMMITTEE16 August 2018Report by ClerkNATIONAL EXTERNAL AUDIT REPORTCOUNCILS' USE OF ARM'S-LENGTH ORGANISATIONS**PURPOSE OF REPORT**

1. To provide information on the Audit Scotland report *Councils' Use of Arm's-Length Organisations*.

RECOMMENDATION

2. It is recommended that the Committee considers the report.

BACKGROUND

3. A copy of the Audit Scotland report *Councils' Use of Arm's-Length Organisations*, published in May 2018, has already been circulated to all Audit and Scrutiny Committee Members. Under the Committee's specialisation arrangements, the Members leading the review of this particular report are Councillor Miller and Councillor Grant. The Director of Education and Head of Accountancy (Chief Financial Officer) have provided joint comments on the report and a copy of that feedback is attached (see Appendix A).

RECOMMENDATION

4. It is recommended that the Committee considers the report.

Local Government Access to Information Act 1985

Report Author: Linda Hutchison, Clerk to the Committee (Tel.No.0141 577 8388)

e-mail: linda.hutchison@eastrenfrewshire.gov.uk

Background Papers:-

1. Audit Scotland report *Councils' Use of Arm's-Length Organisations*

BLANK PAGE

EAST RENFREWSHIRE COUNCIL
AUDIT AND SCRUTINY COMMITTEE

16 August 2018

Report by Director of Education and Chief Finance Officer

RESPONSE TO NATIONAL EXTERNAL AUDIT REPORT:
COUNCILS' USE OF ARM'S-LENGTH ORGANISATIONS

PURPOSE OF REPORT

1. To provide information on the Audit Scotland report, *Council's use of arm's-length organisations* and to comment on such within the context of East Renfrewshire.

RECOMMENDATION

2. It is recommended that the Committee considers and comments on the report.

BACKGROUND

3. Audit Scotland published its report on [Councils' use of arm's-length organisations](#) (ALEOs) in May 2018. The report is in four parts:

- Part 1: How councils use ALEOs
- Part 2: How councils oversee ALEOs
- Part 3 What ALEOs are achieving
- Part 4 The future direction of ALEOs

4. The report sets out key messages and recommendations for Councils and this paper considers these and comments on the findings and implications for East Renfrewshire and its only ALEO, East Renfrewshire Culture and Leisure Trust.

5. The report comments on and makes recommendations for councils considering the establishment of an arm's-length organisation and although this may not be relevant for East Renfrewshire at this moment, it offers advice and guidance for any such consideration in the future. As such this paper does not comment on those particular aspects of the Audit Scotland report except where it is relevant for us to revisit the systems we have in place and may wish to amend where it may be to our benefit.

6. Audit and Scrutiny Committee will be well aware of numerous reports to Council regarding the establishment of the Trust prior to and since its establishment in July 2015.

REPORT

7. The Audit Scotland report sets out seven key messages as listed below. This paper comments on these as pertinent to East Renfrewshire.

Key messages

- 1) *Arm's-length external organisations (ALEOs) are separate organisations used by councils to deliver services. They can bring both financial and operational benefits.*
- 2) *Councils should consider the risks associated with ALEOs at the outset. Oversight, accountability and good management are essential. In managing ALEOs, councils should continue to apply the principles in the Following the Public Pound Code (FtPP).*
- 3) *Councils have improved and strengthened their oversight of ALEOs. They need to set clearer criteria for how councillors and officers are involved with ALEOs, and demonstrate more clearly how ALEOs secure Best Value.*
- 4) *Councils show improving practice in evaluating ALEOs as an option for delivering services. They could do more to involve the public and other stakeholders in the process.*
- 5) *Taxation advantages for registered charities have been a strong driver for councils establishing ALEOs. Following a Scottish Government review, these benefits are now less certain and some councils are exploring other options.*
- 6) *ALEOs have brought benefits including reduced service costs, increased uptake in sports and leisure, and improved standards of care. Councils need to better demonstrate how their use of ALEOs improves outcomes for people (by outcomes we mean the local improvements councils and their partners seek to make such as people's health and wellbeing, and a better-quality environment).*
- 7) *The context in which ALEOs operate is changing and cost pressures remain. Councils must have clear reasons for establishing ALEOs and consider alternatives. In doing so they should be clear on the risks involved, and work closely with local communities and businesses.*

Establishing East Renfrewshire Culture and Leisure Trust

8. At its meeting on 17 December 2014, Council agreed that arrangements should be put in place for the transfer of a group of services to a Culture & Leisure Trust: Active Schools; Arts and Theatre; Community Halls, Libraries, Sports Centres and Sports Development.
9. Financial and operational benefits were identified at the time:
 - Establishing the Trust as a charity limited by guarantee allows the Council to achieve savings from NDR relief and VAT efficiencies amounting to £412k per annum;
 - The Trust, as independent of the Council in terms of decision making, allows it to be more agile and better placed to be innovative and flexible in its approach to managing and delivering services;
 - There are opportunities for the Trust to be more commercially focused, more efficient, to be able to attract funding as a charity; and
 - To improve the quality services it offers to our residents at a faster rate, while meeting its charitable objectives and contributing to the Council's Community

Plan as a partner organisation.

10. When East Renfrewshire's Trust was established 24 other councils across Scotland had already done so. As such we were able to learn from those who had adopted ALEOs earlier and to a certain extent could learn from best practice and avoid making similar mistakes. Council officers from each department and service worked with Trade Union colleagues and advisers from Ernst and Young, to identify possible risks, worked to overcome these and ensured that systems were put in place to oversee the Trust's performance, both financially and operational delivery,

11. Audit Scotland's Report makes a number of recommendations, many of which are relevant for East Renfrewshire.

- 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;
- oversee the performance, financial position, and associated risks of ALEOs;
- have clear reasons for appointing councillors and officers to ALEO boards, recognising the responsibilities and requirements of the role, and the risks of conflicts of interest;
- provide training, support and advice from both the perspective of the council and the ALEO. This should include legal responsibilities, scrutiny and oversight, and conflicts of interest;
- have processes in place to manage any potential conflict of interest of elected members and officers involved in the operation of ALEOs;
- take an active role in managing their relationship with ALEOs, including their compliance to service level agreements, contracts and other obligations; and,
- make information about ALEO funding and performance clear and publicly available.

12. This paper takes each of these above, makes comment on East Renfrewshire's processes and procedures in the context of ERCLT and where appropriate, suggested next steps.

Demonstrate how ALEOs help the council meet its objectives and improve outcomes for their communities.

- The [Trust's Business Plan](#) and budget are approved by full Council on an annual basis. The Business Plan is based on delivering its charitable objectives, but also has strong links to the Council's Community Plan and Strategic Outcome 2 in particular and specifically Intermediate Outcome 2.4 *Residents are active and optimise their health and well-being*.
- The Director of Education has the role of reporting on whether or not the Trust is delivering best value. To date this has been done through reports to Cabinet and Council on the Trust's delivery of targets set out in the Council's ODP which assesses the performance of the Trust.

- Audit Scotland's report suggests that stronger arrangements be put in place to review service agreements and we should consider introducing regular reports which clearly state whether or not in the Director's view the Trust is the best option for the delivery of its services. The Director of Education will include this in her annual report on the Trust in future.

Set clear criteria for reviewing an ALEO, considering risks, performance and how it fits with council priorities.

- Trust targets are included in the Council's Outcome Delivery Plan and as such are monitored by Cabinet, Council and the Chief Executive through 6 monthly meetings and reports.
- In addition, regular reports on the progress of the Trust's business plan are discussed at Board meetings which are attended by 4 elected members and two senior Council officers.

Oversee the performance, financial position, and associated risks of ALEOs.

- Two senior officers of the Council observe the Trust and attend its Board's meetings (Director of Education and Chief Accountant). The Audit Scotland report comments that most "*councils had strengthened the role of such officers to give them greater seniority and influence.*" To this end it is intended that the financial observer at Board meetings should be the Council's Chief Financial Officer in future.
- There are regular meetings between the Trust's Chief Executive and CMT members / Heads of Service. These are as appropriate to the services delivered by the Trust and Council services which support ERCLT, such as Finance, HR, PR, ICT, PaTS, and Education through Service Level Agreements.
- There are also regular meetings between the Trust's Director of Finance and Commercial Services and Education's Finance Business Partner to monitor the Trust's financial performance throughout the year.
- Recently the Council commissioned an independent finance and business review of the Trust and a subsequent joint Trust / Council action plan is now being implemented and overseen by the Director of Education, the Trust's Board and its Chief Executive.
- There is a joint risk register between the Trust and the Council and each organisation has risks identified individually. This allows both the Council and the Trust to put control measures in place on a partnership basis as well as within each organisation.

Have clear reasons for appointing councillors and officers to ALEO boards, recognising the responsibilities and requirements of the role, and the risks of conflicts of interest.

- Membership of the Trust's Board includes 4 elected members, nominated and approved by Council. Their role is as suggested in the Audit Scotland report; i.e. to bring their experience as elected community representatives and their knowledge of the council and its services. They receive legal training in conflict of interest and declare their interest in the Trust when any relevant papers / business of the Trust are discussed at Council meetings.

Provide training, support and advice from both the perspective of the council and the ALEO. This should include legal responsibilities, scrutiny and oversight, and conflicts of interest.

- It is accepted that we could do more to offer ongoing training to elected members serving on the Trust over and above the legal training on conflict of interest as outlined above. As such we intend to liaise with Glasgow City Council to consider using / adopting / adapting the training package referred to in the Audit Scotland report. Also to be introduced in 2018-19 are briefing meetings with the Director of Education prior to each Trust Board meeting which will advise and guide elected members on specifics related to the agenda.

Have processes in place to manage any potential conflict of interest of elected members and officers involved in the operation of ALEOs.

- The Director of Education and Chief Accountant are observers of the Board and as such are not directors of the Trust. They can intervene should an elected member give any Council information which they are privy to as a councillor or ask for particular actions which could be construed as promoting their own ward above that of others and the work of the Trust. As mentioned above, elected members receive legal training in conflict of interest and declare their interest in the Trust when any relevant papers / business of the Trust are discussed at Council meetings.

Take an active role in managing their relationship with ALEOs, including their compliance to service level agreements, contracts and other obligations.

- There are regular individual meetings between the Trust's Chief Executive and CMT members / Heads of Service. These are as appropriate to the services delivered by the Trust and Council services which support the Trust, such as Finance, HR, PR, ICT, PaTS and Education through Service Level Agreements.
- The Head of Education Services (Quality Improvement and Performance) meets the Trust's Chief Executive regularly to monitor the effectiveness of the services received by the Trust from Council departments.
- Service Level Agreements were reviewed shortly after the Trust was established and an exercise to re-examine these is currently being undertaken in 2018 – 19 as an action from the recent financial and business review.

Make information about ALEO funding and performance clear and publicly available.

- The Trust's performance is monitored and reported to Cabinet and Council and as such are publicly available. Its business plan is approved by Council on an annual basis.
- It also produces an annual report which is available on its website after approval by the Board.
- The funding of the Trust is shown as the Culture and Leisure Services third party payment budget within the Council's published Revenue Estimates.
- Its 2017/18 annual audited accounts will be published on the Trust website after approval by the Board.
- The minutes of Trust meetings are available on its website

Part 3 What ALEOs are achieving

13. Audit Scotland's report also points to the success of ALEOs in bringing about improvements for customers and the services they provide. This is also the case with ERCLT and although only in existence for a relatively short period of time, performance is already much improved as exemplified below from extracts from its 2017-18 annual report to Cabinet:

- total leisure centre attendances were at a five-year high, exceeding last year by a further 9%;
- significant increases in attendance at gyms (10%), fitness classes (15%) and outdoor activity (7%);
- gym memberships up 14% on previous year and 30% on 2014/15 levels;
- continued expansion of the gymnastics programme with 14 new classes offered;
- a revised concessions policy and a wider pricing and product review was developed and is being implemented throughout 2018;
- revised safeguarding policies and procedures for children and vulnerable adults;
- customer satisfaction rates with Community Facilities remained very high, with ratings for cleanliness, building condition, frontline staff performance and overall service all at 97% satisfaction or above;
- total library issues up 2% with book issues to children and young people up 7%;
- total professional theatre audiences grew 25% to 16,276;
- the ERCL People Strategy was developed;
- absence rates reduced to 7.5 FTE days lost, down 23% from 9.7 in 2016-17;
- a pilot implementation of Open + in Clarkston library with a view to extending opening hours (due for completion summer 2018; and,

14. Performance under SOA indicators are also reported in the paper to Cabinet as a few of the Trust's contributions to the CPP:

Indicator	2016/17	2017/18	2017/18	Notes
	Actual	Actual	Target	
Library visits (physical) per 1,000 population	6,013	5,710	6,280	5,710 visits per 1000 population represents 90.9% of this year's target. Contributing factors include reduced hours in some libraries, the knock-on effect of the pool closure in Barrhead Foundry and severe weather in Q4.

Indicator	2016/17	2017/18	2017/18	Notes
	Actual	Actual	Target	
Leisure centre attendances per 1,000 population (including pools)	9,300	9,711	10,600	9,711 attendances per 1,000 population represents 91.6% of target. Total centre attendances still increased 9.0%. As suggested, levels were below target mostly due to the refurbishment closure of Barrhead Foundry pool. 3 weeks of unplanned pool closures at Eastwood High also contributed.
Percentage of adult population participating in physical activity (inc. walking for exercise)	86%	91%	91%	Results drawn from the Citizens' Panel survey 2017. Scottish Household Survey 2017 not available till September 2018. Equivalent SHS question for 2016 produced an ERC score of 78% and a National score

Indicator	2016/17	2017/18	2017/18	Notes
	Actual	Actual	Target	
				of 79%.

Part 4 The future direction of ALEOs

15. The Barclay Review, which was set up to examine and recommend reforms to business rates system in Scotland, recommended that rates relief for ALEOs should end. This recommendation was subsequently reduced to apply to any new ALEOs and any new facilities with any difference in new ratable values of replacement buildings not being eligible for rates relief.

16. This will have an impact on the revenue budget for the Council should it decide to replace a leisure centre, community hall or library, such as Eastwood Leisure Centre. As such any future increase in rateable value would have to be provided for in the Council's budget plans.

17. The Audit Scotland report also highlights that there may be other benefits and risks as ALEOs evolve and the Council should keep these in mind in considering whether the Trust is delivering best value for the residents of East Renfrewshire.

CONCLUSION

18. Audit Scotland's report on Councils' Use of Arm's-Length Organisations makes a number of useful points and recommendations on the establishment of ALEOs and a council's role in supporting and monitoring of such, many of which are relevant to East Renfrewshire and its only ALEO, East Renfrewshire Culture and Leisure Trust.

19. East Renfrewshire Culture and Leisure Trust is performing well, improving customer experiences, meeting its charitable objectives and is contributing to the health and wellbeing of the residents of East Renfrewshire. It is overseen by an active Board of Trustees who hold it to account and support it to continuously improve.

20. East Renfrewshire officers and elected members are keen to support the Trust to be successful, have good working relations with ERCLT and monitor its performance in line with the Audit Scotland report.

21. A few recommendations are made in this report which will help to improve the support to the Trust and the evaluation of its performance in reporting on best value to elected members. The Director of Education and the Chief Financial Officer are working with the Chief Executive of the Trust to finalise an action plan in this regard.

RECOMMENDATION

22. It is recommended that the Committee considers and comments on the report.

Mhairi Shaw
Director of Education

Margaret McCrossan
Chief of Accountancy

August 2018

Report Author(s)

Mhairi Shaw, Director of Education
Tel: 0141 577 8635

Mhairi.Shaw@eastrenfrewshire.gov.uk

Margaret McCrossan, Head of Accountancy
Tel: 0141 577 3035

Margaret.McCrossan@eastrenfrewshire.gov.uk