

# Southend-on-Sea Borough Council

Agenda  
Item No.

**Report of the Members of the Cultural Governance  
Task & Finish Group  
to  
Cabinet  
On  
15<sup>th</sup> March 2011**

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**The Future Governance of Culture Services  
Community Services Scrutiny Committee  
Executive Councillor: Councillor Derek Jarvis  
Part 1 Agenda Item**

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**1. Purpose of Report**

- 1.1 To report back to Cabinet the findings and recommendations of the “Future Governance of Cultural Services Task & Finish Group” following investigations into the benefits of alternative governance models / service delivery mechanisms for the provision of Cultural Services.

**2. Recommendation**

- 2.1 **That Cabinet approve the recommendations from members of the Task & Finish Group as set out below.**
- 2.2 **That the Cultural Services current mixed approach to governance / service delivery is acknowledged as being efficient and therefore, retained and regularly reviewed on an individual service basis. (The service is currently provided through a range of mechanisms which over the years have been adopted to meet good practice and deliver efficiencies).**
- 2.3 **That Cultural Services look to obtain economies of scale and value for money via shared services with other organisations, including Local Authorities.**
- 2.4 **That the cyclical strategic commissioning model be further developed to regularly review each service area against its objectives and identify the most appropriate individual mechanism to provide the required outcomes. The outcome of such reviews could recommend taking services back ‘in-house’ as well as the option to externalise.**

2.5 That the development of Social Enterprises be further explored by taking an incremental approach, with the possibility of ‘mutualisation’ of Cultural Services on a service by service basis (see appendix 1 for glossary of terms)

2.6 The following changes to individual service mechanisms be pursued:

- Library Elmer Square – that alternative governance mechanisms be considered with the partners during the development of the new joint library at Elmer Square.
- Parks and Ground Maintenance – to undertake a benchmarking exercise with the private sector and then consider alternative governance mechanisms, including the social enterprise model, which enables competitive and entrepreneurial development into private sector markets for profit thus subsidising the Councils requirements.

Further reports will be submitted to cabinet when future recommendations emerge following the outcome of these projects.

2.7 The following services remain as at present:

- Theatres – The current contractual arrangements with HQ Theatres continue.
- Leisure Centres – The contract for the management of leisure and sports centres be tendered as planned in 2012 and will include the possibility of Social Enterprises and Charitable Trusts as options.
- Museum Service – services remain in house.
- Arts Development - services remain as a hybrid between, in house, voluntary and provision by third party organisations such as Metal Culture.

### 3. Background

3.1 The last three years has seen much national work undertaken around the strategic commissioning of cultural service delivery; the aim being to optimise financial and operational opportunities / benefits. As a result the current trend is a move to alternative governance structures (e.g. Trusts, Social Enterprises, Shared Services, Arms Length Organisations, Outsourcing etc).

3.2 The Council currently provides its cultural services through a range of mechanisms which over the years have been adopted to meet good practice, maintain delivery, meet financial constraints and provide value for money. In

addition the cultural estate operated by the council is a mixture of both Council and trust owned facilities.

3.3 National Trends in Cultural Governance

Over recent years, more than 120 leisure and cultural trusts, social enterprises and arms length organisations have been created in the UK, ranging from small trusts representing single leisure centres to larger organisations managing more than 65 sites. Together they have a combined annual turnover in excess of £625 million, have more than 210 million customers visiting their facilities each year and employ over 26,000 full time employees. Collectively they operate more than 920 individual sites.

3.4 Sporta (the representative body for social enterprises within culture and leisure in the UK) are predicting that the number of cultural trusts and social enterprises will double over the next 2-3 years and that one quarter of local authorities with significant leisure output are considering trust options. 51% of these are looking to transfer in the next two years.

3.5 As a result of the above Cabinet agreed on the 12 January 2010 to instigate a joint member and officer task and finish group to investigate the benefits / advantages that alternative governance / service delivery models for Culture can offer the Council and the residents of Southend.

3.6 A recent cabinet report (26<sup>th</sup> January 2011) highlighted the need to review how the Council delivers services. Support and consideration will be given to the assessment of opportunities and benefits from joint working, management and delivery with other councils and agencies, the use and support for social enterprise, the voluntary sector and other not-for-profit organisations, the use of trading companies, either as part of the Council or jointly with others, and the use of volunteers.

3.7 The task and finish group have undertaken in depth research including officers working with a number of trusts, national organisations such as the Improvement & Development Agency, Sport England, the Museums Libraries and Archives Council etc, a Member visits to a prominent trust and the analysis of local need against the different models strengths and weaknesses.

**4. Governance Options**

4.1 Whilst there are many different legal frameworks available for the governance of culture, the working party considered six broad categories, briefly described below:

Direct Delivery – The Council directly manages all of the services within Culture.

Mixed Economy – The Council predominantly provides the services however, advantage is taken of numerous different service delivery models such as trusts for leisure centres, management contracts like the theatres,

partnerships etc to offer best value in each individual service area (current arrangement in Southend).

Joint Arrangements/ Shared Services – Services are provided with other local Councils either amalgamating Cultural Services under a joint committee of partner Councils or a range of commercial arrangements with other Councils to provide all or part of the service.

Outsourcing – Services are provided to a private company under contract

Transfer to a Charity, Non Profit Distributing Organisation or Arms length organisation – Services are provided either on a commercial contract or via a special purpose vehicle created by the Council (The Local Government Act 2000 provides the Council with the powers to do this).

Social or Community Enterprise – the provision of services via a ‘for profit’ organisation which generates income to subsidise community provision usually via staff of community ownership models. Their aim is to generate profit which is then used to further their social and environmental goals, rather than to maximise shareholder value.

## 4.2 **Characteristics of the governance models and their benefits and disadvantages**

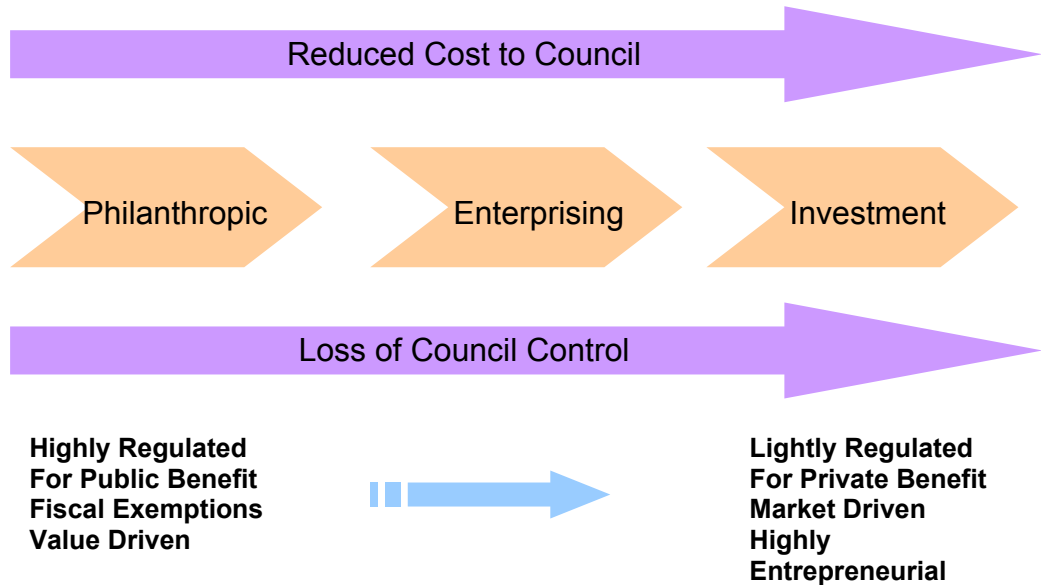
4.2.1 The characteristics of the above governance models can be considered by investigating the following three basic financial mechanisms behind them and their characteristics, key strengths and weaknesses:

Philanthropic – non-profit making with direct support via public funding (e.g. Trusts, NDPOs, and Cooperatives).

Enterprising – public funding is subsidised by additional profit making activities (e.g. Social Enterprises).

Investment - private sector companies provide the services at a profit for the company owners or shareholders (e.g. Private Businesses)

4.2.2 The findings of the above investigations are detailed below:



#### 4.2.3 Philanthropic model

##### Fundamentals

- Charity or trust
- Most common devolution format

##### Key Strengths

- Charities can create complex governance structures to exploit full market opportunity and scale up & grow
  - Charities are eligible for all public and private grants
  - Charities can trade and enter into business partnerships
- Supports single services because asset can remain with the Council.
- Charities can benefit from the most tax exemptions of all models
  - NNDR relief not exclusive to charities and a gift of Treasury

##### Key Risks

- Competition: UK cultural sector earns lots from fundraising
  - Fundraising traditionally low
  - Philanthropy is not 'free'
  - Market becoming more competitive

##### Other Risks

- More single services charities, the greater likelihood of growth slowing
- Growth requires enterprise activity and investment partnerships
- Model offers least versatility for partnerships at board level & the limited accountability can compromise board excellence
- Organisational stresses - grant funding can stress capacity for market responsiveness, trading subsidiaries need strategic integration
- Most devolved cultural services yet to exploit fundraising and gift aid
  - if not prepared to ask for donations why become a charity?

#### 4.2.4 **Social or Community Enterprise model**

##### Fundamentals

- Delivery of cultural services by social enterprises – for ‘profit’
- Little sector take up but third sector growth area - as charities but also social enterprises, community or staff ownership models

##### Key Strengths

- Uniquely flexible governance formats for collaborative partnerships
- Demonstrable efficiencies through low net operating margins but also-
- Community & staff ownership linked to increased productivity with:
  - Less risk aversion than public sector (greater potential to innovate)
  - Greater entrepreneurialism than voluntary sector
  - Greater sense of mission than private sector
- Sound financial sustainability – attracts philanthropy and investment
- Asset development models can be used strategically to create economic impact within deprived areas

##### Key Risks

- Transfer of assets – land, collections, building, money – for success
- shared body of experience in assessing this area of risk

##### Other Risks

- Need for strong leadership to think laterally and opportunistically about income generation – capacity gap
- Greater risk of staff reduction
- Achieving diversity –sections of community or workforce can be excluded from participation (offset by good workforce policy)
- Success requires earning a greater sum in profit than actual value of VAT and some NNDR savings
- Challenge for the cultural sector in managing the compatibility of charged services with a free core service

#### 4.2.5 **Investment model**

##### Fundamentals

- Models that contract or partner private sector – for profit
- Second most common form of devolution

##### Key Strengths

- Partnership working – particularly applicable to joint services
- Probability of greater or speedier market responsiveness
- Associated with efficiency - and delivers - but not unique to model
- Unique capacity for significant investment to restore deteriorating assets
- Guarantee long term, year on year funding or budget projections

### Key Risks

- Primary focus of investment models will be to achieve efficiency
  - unless significant consumer demand influences service provision

### Other Risks

- Risk of creating virtual monopolies driving improved but homogenised services rather than ones determined by need (offset by contract)
- Risk to integral service improvement & skills growth
  - little incentive to embed key entrepreneurial and management skills
- Apart from efficiency and investment it offers the least potential to exploit full range of income opportunity –
  - private benefit puts off philanthropy
  - greater challenges in asset transfer
  - over time investment is likely to be offset by gross profit

4.2.6 A workshop session was held with Members to determine the headings and weightings to be used in the assessment of each model of service delivery.

4.2.7 The table below compares the basic financial mechanisms and their characteristics, key strengths and weaknesses against the Task & Finish Groups predetermined requirements to benefit the Council and the people of Southend (It has been assumed that any future Governance model will uphold the reputation of the Council, be ethical and transparent):

Characteristic	Importance 1= low 3 = high	Philanthropic (See 4.2.3)	Enterprising (see 4.2.4)	Investment (see 4.2.5)	Mixed Economy (see 4.1)
Increased working with partnerships	3	3	3	0	3
Increased Flexibility to adapt to public needs	3	3	3	0	3
Emphasis on Performance outcomes	3	0	3	3	3
Flexibility to change governance model	2	0	0	0	2
Risk to Council of business Failure	3	0	0	0	3
Contribution to Council's priorities	3	3	3	0	3
Achieve significant revenue savings	3	3	3	3	0
Balance commercial factors and social need	2	0	2	0	2
Staff Protection	2	0	0	0	2
Control over services	2	0	0	0	2

Ability to subsidise council service	3	3	3	0	0
Long-term maintenance & development of Council assets	3	0	0	0	3
Long-term sustainability of cultural services in the Borough	3	3	3	0	3
Maximises use of volunteers	3	3	3	0	3
Deliver Economies of Scale	2	0	0	2	2
<b>Total</b>	<b>40</b>	<b>21</b>	<b>26</b>	<b>8</b>	<b>34</b>

4.2.7 It is clear from the above table that the current mixed economy approach to cultural services offers the best fit against the Task & Finish Group's predetermined criteria which will offer the best services for the Council and the people of Southend.

### 4.3 Financial implications

4.3.1 Many of the above governance models offer financial benefits .e.g:

4.3.2 Charities – may take advantage of 80% charitable rate relief with an additional 20% at the discretion of the Council. Full rate relief for Cultural services amounts to £158,000 per annum in addition to that already saved through Parkwood Community Leisure.

4.3.3 VAT – a change in governance would require VAT registration and VAT liability. This would result in a number of different scenarios depending on the governance model. VAT exemption is unlikely, and as a result the further one moves towards private enterprise the more likely that the VAT implications will impact on the costs to the service users. With the more philanthropic and charitable models investigations into current trusts of similar size and make up has shown a VAT liability in the region of £200,000 per annum. Further advice in relation to the specific VAT implications for Southend-on-Sea would need to be taken.

4.3.4 Grants and other philanthropic income – Investigations have shown that many organisations do not like giving directly to Councils or closely affiliated Council organisations. In addition the competition for these funds is becoming increasingly competitive due to the increase in charities and arms length organisations.

4.3.5 Contractual arrangements – whilst any alternative governance model will require contractual arrangements with the Council, investigations have shown that this does not protect the organisation from budget alterations and cut backs. A number of trusts recently visited have experienced non-



contractual cut backs due to the current spending review. It should be noted that the most successful cultural trusts are those with a separate source of income, e.g. some have rentable property, or crematoria services which bring in other income to support their cultural operations.

4.3.6 Income from private sector activity – Some of the governance models allow for profit activity, which allows service delivery into private commercial markets. Such profit making activity can be used to subsidise the Councils requirements. In order to be successful in this area, staff salaries will need to be flexible to respond to market rates and overhead costs such as IT, Audit, HR etc may need to be reduced to competitive private sector rates.

4.3.7 Trading whilst operating as a Council service – Cultural services within the Council is able to bid for external contracts to help subsidise the service however, the markets are highly competitive. Given that local government conditions of service are not as flexible as those in the private sector, winning external contracts whilst part of the Council can be challenging.

#### 4.4 **Shared or Joint Services**

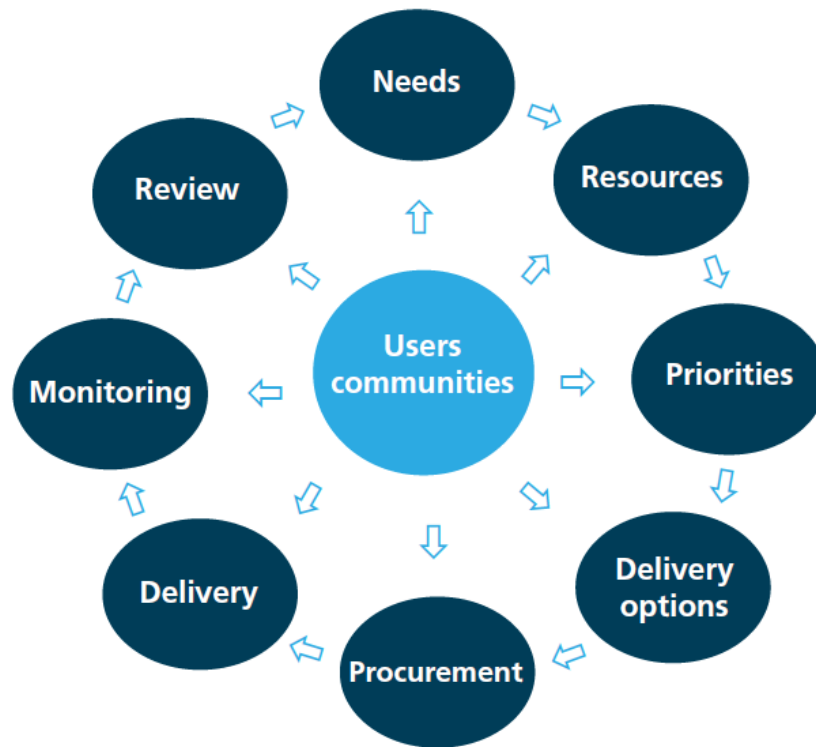
This model fast emerging involves two or more councils jointly running or managing the culture and sport services together. Shared service can be delivered in two ways, namely

- Through an 'informal' dimension in which the two services are independent but there is joint working and some sort of partnership framework or agreement.
- a 'formal' dimension in which there is a single service, serving two or more different councils.

The advantage of this arrangement is that it can be service specific – that is, just an arts or museum service rather than all culture and sport services. It is also likely to be much quicker and cheaper to establish a shared service model than developing a new trust. This approach is also likely to suit smaller district councils with comparatively low populations.

#### 4.5 **Strategic commissioning**

There are a number of options for the delivery of services within the mixed economy approach and these can be evaluated in their own right in terms of strengths and weaknesses. There is however, a need to set these in context, by enhancing the current strategic commissioning model to ensure that the right objectives, priorities and performance measures are put in place:



The enhancement of the strategic commissioning model to consider different governance / service delivery methods for individual services within cultural services will enable the service as a whole to take advantage of the changing environment.

## 5. Reasons for the recommendations and potential benefits

5.1 Following detailed investigations into the above the Task & Finish Group considered that the Council should retain its current mixed economy approach to the provision of cultural services for the following reasons:

- The transfer of the service as a whole will reduce the council's control over a service provision that is critical to the improvement of the economy within Southend
- The initial cost savings achievable are not substantial enough to justify relinquishing control
- The mixed economy approach is flexible and can maximise a range of benefits with minimum risk to the Council.
- The risks to sustainability could be compromised if alternative models used
- The mixed economy approach will allow the Council to be more responsive to changes in financial and other market conditions
- There may be a substantial cost implication in transferring to alternative models
- The mixed economy approach will strengthen the council's approach to business continuity planning

- 5.2 The Task & Finish Group considered that the enhancement of the strategic commissioning process to consider alternative approaches to governance / service delivery for each individual service would act as a regular review to ensure best value is continually achieved.
- 5.3 The task and finish group also considered that cultural services as a whole or in part should consider developing shared services with neighbouring councils and organisations in order to take advantage of the economies of scale it will offer.
- 5.4 In view of the above the Task & Finish Group felt that, due to the changing environment and potential for individual service benefits, the following services should be reviewed and developed within the strategic commissioning model:

Library Services – that alternative governance mechanisms be considered for the partnership behind the development of the new joint library at Elmer Square.

Parks and Ground Maintenance – To undertake a benchmarking exercise with the private sector and then consider alternative governance mechanisms, including the social enterprise model, which enables competitive and entrepreneurial development into private sector markets for profit thus subsidising the Council's requirements.

- 5.5 The remainder of the service should continue as it currently provides until such time as the strategic commissioning model shows that alternative models should be adopted. In effect this will result in:

Theatres - The current contractual arrangements with HQ Theatres continuing.

Leisure Centres - The contract for the management of leisure and sports centres be tendered as planned in 2012.

Museum Service - services remain in house.

Arts Development - services remain as a hybrid between, in house, voluntary and provision by Metal Arts

## **6. Corporate Implications**

### **6.1 Contribution to the Councils Vision & Corporate Priorities**

- 6.1.1 The above will assist the Council to identify the most beneficial way to provide services which will achieve:

- The Council's cultural targets
- The cultural well-being of the residents of Southend

## 6.2 Financial Implications

6.2.1 The identification of a more beneficial governance structures for Southend's Cultural services.

## 6.3 Legal Implications

6.3.1 There are no immediate legal implications to the recommendations in this report. However, future changes in service delivery may result in legal implications, which will be considered at the time.

## 6.4 People Implications

6.4.1 There are no immediate people implications to the recommendations in this report. However, future changes in service delivery may result in people implications, which will be considered at the time.

## 6.5 Property Implications

6.5.1 There are no property implications to the recommendations in this report. However, future changes in service delivery may result in property implications, which will be considered at the time.

## 6.6 Consultation

4.6.1 Consultation is not required at present, however, future changes in service delivery will include consultation with service users and residents of the Borough.

## 6.7 Equalities Impact Assessment

6.7.1 Consideration of providing services to all will be a major criteria within any future governance change.

## 6.8 Risk Assessment

6.8.1 There are no risks at present.

## 6.9 Value for Money

6.9.1 The mixed economy approach to Cultural Services could identify options for improved value for money of these services in the long term

## 6.10 Community Safety Implications

6.10.1 There are no community safety implications.

## 6.11 Environmental Impact

6.11.1 There are no environmental implications of this initial investigation.

**5. Background Papers**

Cabinet Report January 2012

Improving efficiency in the Culture and Sport Sector

Outside in: the benefits and issues involved in contracting out local authority arts services

Exploring the Trust option for museums services

Cabinet Report 26<sup>th</sup> January 2011 - Draft General Fund Revenue Budget 2011/12 (Para. 15.8)

**6. Appendices**

Appendix 1 - Glossary of Terms – What is a mutual?

Appendix 2 - Visit to Peterborough's Cultural Trust

Appendix 3 - MLA presentation - Cultural Devolution?