

**Cultural Governance Task & Finish Group
Visit to Vivacity, Peterborough Culture & Leisure Trust
29th October 2010**

**Present: Cllr Derek Jarvis (Chair)
Cllr Chris Walker
Cllr Jim Clinckscales
Nick Harris, Head of Culture
Peter Vadden, Group Manager
Sharon Wheeler, Strategy & Planning Manager**

Background

On 12th January 2010 Cabinet gave approval for the creation of an all party member task & finish group to consider the viability of alternative mechanisms for the delivery of Cultural Services taking into account the demonstrable benefits they offer and to report back to full Cabinet with appropriate recommendations.

Subsequently the Task & Finish Group was established and met in June 2010 where it decided that it would seek to undertake a visit to another Culture Trust as part of its fieldwork. On 29th October 2010, members of the group visited Vivacity, Peterborough Culture & Leisure Trust, where they met with the Trust's Chief Executive, Kevin Tighe and Mike Keeley, Director of HR.

Vivacity, Peterborough Culture & Leisure Trust

On 1st May 2010, management of Peterborough City council's Key Theatre, Museum and Art Gallery, public libraries and sports centres transferred into a specially created Culture and Leisure Trust, Vivacity, under a 25 year contract.

The optimum delivery method of Cultural Services for Peterborough City Council had been under consideration since the Council's Best Value Review in 2004. Key to that review were studies by KPMG (July 2005) and Deloitte (October 2006) which both considered:

- in-house delivery,
- tendering for a commercial operator,
- a mixed approach to service delivery; and
- the formation of a Trust

The studies both concluded that the optimum way of delivering the kind of cultural services desired by Members was through a trust. Both studies were reviewed by leading leisure trust solicitors, Lawrence Graham; who agreed with the conclusions that the delivery of services through a trust remained the optimum way of delivering those services.

The strategic reviews highlighted a number of advantages a Trust would have in helping Peterborough City Council achieve its ambitions:

- A more dynamic business like approach which will increase the speed of decision-making and reduce bureaucracy, resulting in facilities and services being operated with greater financial and management agility. This would enable the Trust to respond more effectively to market changes.
- Community involvement in the delivery of culture and leisure activities would be enhanced through membership of the Trust Board
- Stronger links with the private sector will be encouraged through membership of the Trust Board, offering greater opportunities to raise sponsorship
- A more effective business-focussed and commercial management team structure will enable the Trust to exploit business opportunities
- The Trust would seek charitable status which may result in benefit from financial advantages available through VAT savings and potential reduction of NNDR – charities are entitled to mandatory rate relief of 80% from NNDR and can apply for discretionary relief for the remaining 20%. Trusts operating sports facilities are exempt from VAT on entrance fees for sporting activities and there are a number of 'VAT Breaks' for voluntary bodies generally

On 12th October 2009, Peterborough City Council's Cabinet determined to consider the transfer of the Arts Services, Heritage Services, Museum Services, Library Services and Sports Services into a Culture and Leisure Trust and authorised the start on the process of establishing a not-for-profit Trust, subject to appropriate consultation with staff and the agreement of a business plan.

A shadow board was established to enable decisions relating to the establishment of the Trust and to the contractual arrangements between the Council and the trust before the trust itself was created. Two Councillors were appointed as members of the shadow board and the remaining members were recruited through a public recruitment campaign.

On 26th February 2010 the shadow trust became incorporated as a company limited by guarantee.

The establishment of the trust involved employees transferring under Transfer of Undertakings (Protection of Employment) Regulations. The Trust adopted the Local Government Pension Scheme for those employees being transferred into the Trust and also made arrangements with a third party provider for new employees, thereby 'capping' the trust's pension liability over time.

The transfer of the Council's cultural and leisure portfolio required several key agreements:

- Transfer agreement (identifying transferring assets, assigned or retained contracts, employees),

- Funding and management agreement (setting out funding to be given by the Council to the Trust and the Council's expectations for such services)
- Collections agreement (governing the loaning and management of the Council's museum collection to the Trust).

In drafting the various agreements, care has been taken to ensure that if the Trust fails, the Council will be in a position to either take over the running of the service again or appoint another operating partner.

The management of the property assets from which services are delivered is key to the successful delivery of the agreed outcomes of the Trust. The properties have been leased to the Trust on a 25-year basis; the Council is the landlord and the Trust the tenant. The lease includes roles and responsibilities including the liability for maintenance. The Council will always retain ownership of these assets.

Partnership working is key to success of the Trust. The Trust's most important partner is Peterborough City Council. As a charity, the Trust must retain its independence; however, the Council is able to exert influence through the formal agreements and via its active participation in decision making through its two nominees on the main Board of Trustees. The Trust has to agree its business plan annually with the Council and produce annual reports and accounts which will be presented to Members as part of the Council's scrutiny process.