

25th August 2014 – Collection of the comments received and project team answers during Culture Trust consultation period

- 1 One of the main reasons for transferring services to a charitable company is to benefit from rates remission. Would the council be able to grant its libraries and museums the discretionary rates relief for not-for-profit organisations under the current structure (i.e. still within the council) without moving services to a separate company (not that this is the proposal)?
- Why is the council seeking charitable status for the company in particular (i.e. as opposed to a not-for-profit company which could apply for discretionary rates relief)?
- Local authorities can "top up" charitable rates relief to 100%, so why is the council proposing to give only 95% remission (figure from report of 27 February)?
- Has the council considered the ethicality of making savings through what is essentially a legal tax avoidance measure? Will the council see a reduction in its income from non-domestic rates as a result of the change? If so, is this likely to be more or less than the amount saved by the change?
- Would there be a safeguard in place to ensure the company pays its staff at least the living wage and provides the same working conditions (e.g. through a contract with the council)?
- Does the council anticipate the charitable company asking the general public for donations (e.g. as an independent charity might)?
- One of the council reports states that no more than 25% of the company's board of trustees can be SBC councillors. Where does this rule come from (e.g. which piece of legislation)? The governance structure diagram refers to a "19% rule" but I can't see any reference to it elsewhere in the reports. Could you please explain what this is?
- The reports propose the charitable company will have a subsidiary trading company. Does the council intend this company to carry out activities in competition with existing businesses (e.g. outside catering)? What impact would this have on the local economy?
- Bearing in mind examples where ALEOs have caused substantial losses of public money through deficiencies in governance and management (from Audit Scotland reports), what steps will the council take to ensure all runs smoothly within the company and that it is democratically accountable and financially efficient? Will SBC councillors be able to subject the company to the same level of scrutiny they can with the current service. ?

Answer

Our rates relief policy is for organisations separate from the council so my understanding is that this would not be possible under the current structure.

We would hope to achieve charitable status as there will be more financial benefits available to a charitable organisation such as full rates relief and VAT benefits. The charitable status model follows that adopted by other local authorities .

The 95% figure is a net figure. The Trust will receive 100% relief but the increased cost to the council for the discretionary relief means the overall effect on the council will be a 95% saving. The approach to forming a Trust is a valid legal option open to us and to other Local Authorities and is a tried and tested option.

The Council won't see a reduction in income, but the Trust will benefit by a reduction in costs, with the net effect of contributing to the savings needed by the Council.

Salaries and working conditions will be governed via a Service Level Agreement between the Council and a Trust, ultimately to be approved by Councillors. In addition the Transfer of Undertakings (Protection of Employment) Regulations provide guarantees that transferring employees will retain their existing contractual terms and conditions, including salary.

There are no current plans to do this, but ultimately it will be for a Trust to decide.

The less than 25% is not taken from legislation per se but looking at the ratio of councillors to trustees in other comparable trusts.

This is an alternative ratio of Councillors to trustees. We will explore this further in meetings with OSCR and refer to them for advice and guidance on best practice.

At this stage the Council has a number of options. The Trust will be a third sector entity and is likely to have a more demand led approach to income earning based on the possibility of reducing public subsidy in future years. We would expect governance arrangements to allow the impact on the local economy to be taken into account in decision-making.

The minutes from Audit Scotland report (Page 5) from 12 December 2013 states "Internal audit used the Accounts Commission's 'How Councils Work' report on ALEOs to review governance arrangements in council ALEOs. Internal Audit's report to the Audit and Scrutiny Committee in November 2013 concluded that the council's larger ALEOs have well developed governance arrangements in place and largely comply with good practice as set out in the Commission's report. Internal Audit also identified scope to improve oversight of ALEOs, particularly in relation to those that were set up a number of years ago, to ensure compliance with current guidance. An action plan aimed at securing further improvements is in place."

http://www.audit-scotland.gov.uk/about/docs/ac_131212_papers.pdf

The council has experience of working successfully with BSLT over a period of 10 years and intends to set up a governance structure based on this experience as well as the recommendations provided by Audit Scotland.

- 2 I would like reassurance that library provision in Eyemouth and use of the Eyemouth Community Centre with a human controlled, phone accessible booking system would continue to be AT LEAST as good as it is currently.

Answer

Your comments relate to service delivery. The Trust proposal is being considered as the most effective means of protecting the continued provision of efficient and locally accessible services, including libraries and meeting the needs of citizens of the Scottish Borders will be key to the success of the Trust.

I realise that this is a very general statement but I hope that it provides some reassurance that the purpose of transferring services to a Trust is to protect rather than reduce service provision.

- 3 My main concern with the proposal for a Trust is that there is a danger it loses focus because of the broad nature of the remit. Covering arts, libraries etc is very wide. Also I worry about the development side of the arts. This needs people who understand the creative process whereas much of the remit concerns procedure and process.

Answer

I note your concern about focus but there is an argument that rather than reducing focus the grouping of a number of Services that share a heritage/cultural/ customer-facing remit into a single body could increase focus and co-operative working. Instead of these services being part of the Council where their position and influence is not the same as some of the larger sections - schools, social, work, roads etc, they will report to a governing body whose sole responsibility will be to manage, promote and develop a cultural offering.

With regard to your concern about Arts Development. The transfer of employees is governed by legislation (TUPE) and as such the current Arts Development staff will transfer to a Trust.

- 4 As long as this isn't really a mechanism for reducing opportunities to the arts/cultural sector in the region, and it really is going to make things more focussed and productive, then this would seem a good plan.

Thanks for your positive comments regarding the Culture Trust.

How was it established that budget cuts of £407K had to be made by October 2015 and what is the current annual budget.

- 5 Where are all the properties, Libraries, Museums, Halls, Centres etc, associated with the

Culture Services located and what are their individual rates? How many staff are located at each property and how many located centrally?

What are the visitor numbers for each of the locations? What percentage of time is each Public Hall used?

What is the current management structure of the services and what structure is proposed for the Trust.

To be successful it would need to be based on a business format and not a Council structure.

Can you please confirm who will own the properties and who will own the contents of the properties if a Trust is formed?

Have the 9 local authorities mentioned in the presentation been contacted to see how their Trusts are performing?

At the presentation, if I recall correctly, the managers of the community centres had been consulted. Have the staff in the various services mentioned been consulted for their views?

Will the responses to the Consultation exercise be put on a Council Web site so that others comments may be seen (like planning applications)?

Answer

The current annual budget for Cultural Services is c. £4.8M. The budget cuts are part of the c. £27M cuts that SBC has to make, and were approved by SBC as part of a package of financial decisions starting from February 2013 and which is impacting across all services. The budget savings are likely to be a continuing service pressure, and may increase in the coming months and years.

Properties are located across the Scottish Borders. The exact number of properties in scope for a transfer was part of the openly discussed and approved paper taken to the full Council meeting in February 2014. A list of the properties in scope to transfer to a Trust is part of Appendix One to that paper, and the web link to the consultation and to the full paper and appendices is attached below.

http://www.scotborders.gov.uk/directory_record/31792/culture_trust

If the question about rates refers to Business Rates, that is summarised within the paper. If the question on rates refers to rate of hire charges then the charges for halls are all shown on the halls and venues page at the following web link

http://www.scotborders.gov.uk/info/1/business_and_trade/792/halls_and_venues_in_the_scottish_borders/2

The number of staff in scope to transfer is also listed in the February Council paper, and at that time totaled 209 staff, which equates to 130 Full Time Equivalent posts.

The vast majority of 209 staff are located outwith Council HQ and some are attached to specific sites and some are located in area offices across the Borders.

Visitor numbers are not gathered for all of the sites. Libraries and Museums and Heart of Hawick do gather visitor numbers, but this is not the case for premises such as Community Centres or Halls. SBC does provide some data as part of an annual CIPFA (the Chartered Institute of Public Finance & Accountancy) return, and this information will be forwarded on within the next two weeks.

Can you clarify what this question means – is it based on a 7 day/52 week cycle, and do you mean by hirers?

For clarity there are currently 16 principal Halls sites, and some are busier than others, and all are affected by the peaks and troughs of customer demand, by seasonality and by other market forces.

All of Cultural Services including the current management team were formerly part of Education and Lifelong Learning. Following the recent Council restructuring Cultural Services are now part of Corporate Transformation & Services within SBC, reporting to the Rob Dickson.

The Trust management structure has not yet been developed, but it is expected that it be formed as a single member Trust owned by SBC, with a Board of probably 12 or 13 Directors, of whom 4 are likely to be Councillors, and that there will be a trading subsidiary.

The Trust may be a Limited Company or a SCIO, and advice is currently being sought on the advantages of each option.

The current Cultural Services management team is likely to transfer under TUPE conditions to the new Trust.

The current working assumption is that most of the properties in scope to transfer to a Trust will be retained on the SBC asset register, and that a 25 year lease will be agreed. This is subject to ratification by SBC, and will be reviewed in some detail by a Member Officer Working Group appointed at the Council meeting on 26 June 2014.

The contents of the buildings are likely to be treated in different ways, with moveable assets such as plant and equipment with a limited life cycle being transferred to the Trust, and fixed equipment being subject to discussions between the Trust and SBC. Ownership of all collections that are owned by SBC is likely to remain with SBC.

Council officers have spoken to most of the Trusts directly, and there is an informal network involving different officers and some external advisers who are in contact with the other Trusts.

The Trusts that have provided the most detail to date, and which Council officers have learned from are Highland, Fife and Dundee, with some additional contact with South Lanarkshire and Falkirk.

The presentation clarified that all of the voluntary Management Committees from the ten Community Centres in scope to move to a Trust were part of a direct and bespoke consultation process.

All staff affected have also had the opportunity to hear about the plans for a Trust and the alternatives directly from Cultural Services managers, and have been consulted in a variety of different ways. Specific staff briefings have been held in August of 2013, and again in May 2014 and further consultations and engagement are planned for the coming months.

Summaries of all discussions are being developed in response to each of the current stakeholder groups, who are those who attended the Area Forums, those who attended the Community Centre consultations and those who attended the various staffing group meetings. The detail and the summaries will also be presented to Council, scheduled from October 2014. At this stage it is likely that the information from the presentations and the consultation process will be anonymised and will be summarised in a public format once the consultation process is complete, and which is scheduled for 31 July 2014.

- 6 I am concerned about the financial implications of community centres being put into a large trust rather than each operating independently.

Answer

We don't see the move to a Trust making any change to a Community Centres ability to operate with any less freedom that they do within the Council and see no reason why a Trust will act any differently than the Council in respect of a management committee's right to manage their balances as long as they are being used for approved purposes and in accordance with agreed centre development plans.

Rather than high level strategy being determined by the Council it would be determined by a Board of Trustees (which will include SBC councillors); day to day management will continue to be the responsibility of the centre management committees working in partnership with their link officers.

- 7 I have reservations regarding the move of cultural services to a Trust and thus loss of control by elected members. I am aware of recent cut in services in the leisure area where a similar trust has control. There may be ways of considering charges for some services which would help to reduce the cost of the service to the authority.

Answer

Your point about the possible loss of accountability is one that has been raised by others. In the Trust model we are considering there would still be elected member representation on the Board - possibly 4 out of 12/13 trustees would be councillors and the payment of the annual fee to the

Trust from the Council would be linked to a service level agreement between the two bodies. While a more aggressive charging and income generation policy could reduce the cost of these services to the Council this would have to be significant before it made any real impact on our annual savings target of £407k. There would be a danger also that significant increases would deter users. In addition legislation prevents local authorities charging for admission to core museum collections and for core library services such as lending.

- 8 Our paramount concern is that there should be no risk of any of the artefacts in the Hawick Museums being removed elsewhere on anything other than a temporary basis. The Society gifted its extensive collection to the Museum on its setting up and in the days of Hawick Town Council and Roxburgh District Council were consulted on all Museum matters through their membership of the Joint Museum Committee which met quarterly. We feel it would be appropriate for such an influential cultural Society as ours to have a representative on the new Trust once it is set up.

Answer

Local ownership of collections is key for communities to have confidence in museums and I have to assume that trustees will be aware of these sensibilities. However the Trust finally turns out I am sure existing managers will still be around to advise trustees on these issues.

Our current working assumptions is that the appointment of Trustees will be an open and transparent process, ie vacancies will be advertised and recruitment will be against a set of criteria. Trustees will be appointed on the basis of their ability to take on the holistic responsibility for managing all aspects of culture for the whole of the Borders, including managing a £4m+ budget. The issue of accountability has come up elsewhere in our consultations and is something we will need to look at further.

- 9 Transfer of Cultural Services to a Trust. I notice on the web site that a large part of the £400,000 saving will be met by the transfer of the properties and staff to a trust due to rates remission. This means SBC will pay itself £400,000 less in rates. This means SBC will have less rates income?? I am sure there is some clever mechanism behind the scenes which explains why this is in any way effective and perhaps that should be clearly explained. It would also be useful to know how much will still require to be saved and where that will come from?
I notice the Trust will be fundraising - has any work been undertaken to look at how easy or effective that is likely to be?
The Council housed its contact centre staff within the library buildings. So once the Trust is established is it the plan to leave those staff (who deal with contact centre work) within the library buildings? Or is it the plan to move them back into council properties? I imagine it would be difficult to have two sets of staff, one council employees and the others trust employees sitting alongside one another.
Before embarking on this exercise it would be useful if the Council could publish some kind of plan of how the Trust will be funded (I assume most of its funds will be in grant aid from the Council). If this is the case then SBC will, I assume have some level of control / influence on the level of service offered by the trust. If so will SBC be retaining expertise within the council to manage this relationship?
I understand that many of the buildings which currently house museums and libraries may have been gifted to SBC, e.g. Carnegie Trust buildings. Can these be transferred to another Trust? Some of the properties are of a fine quality. Will SBC continue to be responsible for the maintenance or will this fall to the Trust. If it falls to the Trust will they receive adequate funds to maintain these properties?
Will the Trust have adequate experience and skills to manage such a wide portfolio of historic buildings?
Public libraries and museums are of great importance, especially in a rural area where people's access to cultural activities can be limited due to travel distances. Such activities are never likely to pay for themselves however that is why we have a public service and why we pay taxes. I

cannot see that that the proposal is adding any great value to the service but is instead a way of showing a saving to the Council in the short term.

I assume with no cultural services to manage the council will be able to reduce the number of Councillors it needs - that would generate a saving? Has it been included in the calculations?

Answer

Business rates are collected by local government and passed on to central government.

Therefore there will be a saving to SBC with a Charitable Trust of this nature. We anticipate that rates remission will meet the vast majority of savings required by Cultural Services.

Cultural Services staff already have a great deal of experience in successfully applying for funding from sources such as the Lottery and Creative Scotland. A Culture Trust will be able to apply for funds that a local authority is ineligible for and we are confident we have the skills within the team already to do this.

It is anticipated that the shared contact centres will continue to operate broadly as they do currently so a complete service can continue be delivered to the public. We don't believe there will be any significant staff issues resulting from this.

The funding that SBC gives the Trust will be negotiated between SBC and the Trustees after they are appointed. The vast majority of the Trusts funding will come from SBC. SBC will ensure effective service level agreements are in place. Good governance is very important to SBC and we will be ensuring that effective procedures and monitoring are in place.

We are not proposing transferring any property to the Trust. We are proposing only to lease it to the Trust.

We are discussing this at the moment internally within SBC. This aspect has to be agreed with Trustees but SBC will want the Trust to succeed and thrive. There is significant property maintenance expertise with SBC and we are looking at how best to make this available to the Trust. In addition we are looking at how maintenance would be funded. The properties are only leased to the Trust so there remains some responsibility with SBC.

We feel that a Trust will be able to focus very effectively on Culture and the Trustees will bring new skills and experience to improve the Cultural offering in the Borders.

The transfer of cultural services will not result in the reduction in the number of councillors.

- 10 From the presentation, it would appear that currently cultural services are a variety of very different individual strands which the Council finds difficult, if not impossible, to weave together. There is no common purpose in the operation of libraries, museums, community halls, etc., and accordingly successful operation as a single unit is not possible. Substantiation comes in the form of the Border Sports and Leisure Trust which is successful because it only deals with one topic – sport.

The presentation also indicated that the Council was looking for a saving of £400,000 on a budget of £4,800,000, a reduction of 8.50% approx. First glance at the report shows a considerable list of properties used for cultural services operations at present and the Club feel that with better organisation, inter-department co-operation, management, and selling of surplus properties, this saving could be achieved without recourse to the formation of a trust.

However, if a trust is to be formed, one catch-all body is not the answer for an area as diverse as the Scottish Borders. At worst, two separate trusts have to be formed (Heritage and Other Services), but much better would be the formation of regional trusts based on the old District Councils or individual town trusts. In this respect it should be noted that the properties shown on the map in the report lend themselves perfectly to regional trusts, while town trusts would give each community control of its own assets, and indeed its own cultural destiny. In particular, it should be noted that Jedburgh runs its own Sports Trust very effectively and efficiently. It is also worth noting that Town Councils were more accountable to the community because of their daily involvement and dependence on each other and such qualities are essential for the proper functioning of a trust.

Further the Club feels that an all-encompassing trust with a board of only 12/13 members as intimated could not function properly given that 4 of the posts would be occupied by councillors. Such a board with meagre public representation could not fairly reflect the interests of the various Borders communities. Town trusts with representation from the various clubs and societies offer greater public accountability and protection of assets, many of which were gifted by local clubs and associations.

We note that the Heart of Hawick complex is included in the proposals. As has often been stated, the complex is the jewel in Hawick's crown and needs to be properly protected and administered. Intimation was made to the Working Group involved in the project that the complex would serve 3 years as a Council project and then move to a stand-alone trust. There is much merit in forming a stand-alone trust for the Heart of Hawick and leaving the rest of cultural services to be administered by the Council.

There is concern that proposals by the Scottish Government for community empowerment could render the trust proposal null and void, and it may be wise to await full details of these proposals before work towards any sort of trust is considered.

Obviously, our primary interest is Hawick, but we believe that smaller town trusts would be the most beneficial way to progress for all, if indeed trusts are to be further considered. However, we understand that this is a preliminary consultation with much more work and further consultation to be held before final decisions are made.

Answer

The governance model we are proposing is similar to ones used by other Scottish Councils that have transferred their cultural services to a Trust. The range of services in these Trusts include that the ones we are proposing to transfer and in some cases also include sport and community learning. These Trusts appear to be able to integrate and operate these services successfully. In our discussions with other Trusts, and with organisations advising the cultural sector, we have been consistently advised to look for the largest possible grouping possible of services and resources. This delivers benefits via economies of scale and greater efficiency with limited resources. The larger organisation would avoid the inevitable duplication of management and the professional and administrative structures that would be required if we were to try to establish a number of small separate Trusts.

You rightly make reference to the Heart of Hawick being the jewel in the crown but it has to be remembered that this facility was developed, and received its funding, on the basis that it was a regional hub and not specifically a Hawick facility. The Heritage Hub is the archive and local history centre for the Scottish Borders and the staff employed in Hawick are the only staff providing this service for the whole of the Borders. Similarly the Borders Textile Towerhouse tells the story of the industry in the Borders and not just Hawick. Tower Mill draws visitors from across the central Borders and beyond. The revenue funding which supports Heart of Hawick therefore takes account of its regional role and may not be sustainable in a more fragmented delivery model.

Local accountability has been raised a few times in the consultation process and we are reviewing how this can best be addressed.

The savings target of £400,000+ is significant and will be permanent reduction from our annual revenue budget and not a one off target. Any income received from selling "surplus" properties would be one off and because it is treated as a capital receipt it cannot be used against revenue savings. If this were the first round of savings we had been asked to find it may have been possible to look for alternatives other than the Trust option or considering significant service reduction but our services have already had to deliver budget savings over a number of years.

For example in 2012 the Library and Information Service delivered a savings package which resulted in five sites integrating with contact centres along with a management restructure that resulted in the number of professional and managerial posts being reduced by four. You make reference to the bill for community empowerment legislation possibly being at odds with our proposals for a Trust. Having reviewed the draft legislation we do not see any potential conflict.

- 11 Do you know if there are going to be any public meetings on the library etc Trust proposal? Users are the owners of the service and need to be able to question people face to face. The consultation is good but is not getting out to many people who are not computer literate or good at communication. Also I think it appears to rely on rates relief - surely this is just moving funds from one pot to another or in the bottom line, SBC will be getting a reduction in their income? Streamlining Management is a must but cannot be mitigated by a board that costs the same and continues to hamper action. Staff need to be properly trained and managed. "Managers" need to be able to manage and non performing or non productive staff (and positions) removed before transfer to a trust or left on the SBC payroll. Property too is an issue I agree. Old buildings cost more to maintain and are high users of energy increasing costs. Similar for IT resources - costly old systems need streamlining but is this going to be done before transfer to the trust or will be trust be incurring the cost of the upgrades? I am also concerned about the impact on Education going forward. Is there going to be resources available for school use. Reading and promotion of reading needs to be a focus to give the country a future. Local libraries need to be locally staffed to allow outreach to the community. I also see a centralisation of services in Selkirk taking away from local staff building up a relationship with clients which if properly managed can retain users throughout their life. Libraries are being asked to provide "back up services" for Job Centres, Entitlement cards etc - this take time and resources as well as provision of IT hardware. Is this cost being recovered from outside agencies to mitigate the costs? Going forward it is the uncertainty that concerns me. These services are fundamental to maintaining a cultural life which is an important aspect of life. IT and access to computers is increasingly important to all ages. This too needs to be available as Government and business move quickly to an online life. Many cannot afford to provide this and required funded assistance in the library to complete even the basics

Answer

Communication - we are not, at this time planning any further meetings. Officers attended meetings of all the management committees of the 10 community centres in scope to transfer and gave presentations at the 5 council area committee meetings which are attended by local councillors and representatives of the Community Council in the area. The meetings were open to the public. Attached is the Q & A from the Teviot Area Forum.

Rates Savings - Business rates are pooled nationally and redistributed back to Councils according to population levels. Decisions by individual Councils only have a very slight effect on the national pool and the amount redistributed back to Scottish Borders Council will be negligible. Scottish Borders Council must however, make a contribution from its own funds towards any discretionary relief that it awards. Providing the Cultural Trust is registered by OSCR this will be 5% of the normal rates liability.

Governance and Staffing - we are currently looking at this - our working assumption and the advice from OSCR (Office of the Scottish Charities Regulator) is that Trustees will not be paid a salary.

Property and Systems - Buildings will only be leased to the Trust, not gifted or sold. We are currently looking at the detail that will go into the leases and how repair and maintenance and investment will be addressed. This will be something that has to be agreed between the Council and the Trust, the former will not be able to just impose the conditions.

School Libraries are not in scope to transfer to the Trust. Furthermore we expect the Trust to continue to support the work and commitment of the Library and Information Service to improving literacy (including IT literacy) and supporting a wide range of equality and social inclusion issues, particularly around welfare reform.

- 12 Scottish Borders Council continues to abdicate its responsibilities. First our local authority sold off its council stock for a pittance in 2003, losing control of housing policy in the process. Next to go were the swimming pools and other leisure facilities, hived off into a trust. Despite the alleged "savings" from these moves core services continued to be cut. Consideration is currently being given to disposing of social care to another arms length company, and now libraries and cultural services are to be the latest "victims" as the council sheds even more responsibility. Collection of garden waste has also been privatised by default. In light of the number of functions no longer performed by Scottish Borders Council is there still a requirement for so many elected members and paid officials? The council's viability must be in doubt. But this minimalist approach is not providing an acceptable service to council taxpayers.

Thank you for your comments. We will be preparing a summary of all comments received which will be made available to elected members before a final decision is made.

- 13 Hawick is being torn apart bit by bit. It starts small a little bit here a little bit there and before you know it, all that is dear to Hawick is gone. Hawick library was a gift to the Hawick people by Andrew Carnegie, so that cannot be touched.

I appreciate your concerns about the possible loss of facilities in Hawick but we believe that the Culture Trust option provides us with the best route to deliver the savings we have been tasked with while still protecting services.

If a Trust is established the buildings will only be leased to the Trust, ownership will still remain with the community via the Council.

- 14 Publicity for the proposal naturally emphasises advantages that may follow but I think it has to be recognised that there are some disadvantages. Transferring existing services and service points to a trust will not guarantee their continuance. While comparable transfers seem to have been largely successful so far, at least one trust (Glasgow) has encountered financial difficulties. There are serious issues over governance of trusts and their immunity from scrutiny through FOI requests. The governance model indicated by SBC provides for Councillors to be on the Trust Board of Directors but their actions there must be at all times such as will further the Trust's interests, which may not always coincide with the intentions or interests of SBC or of the users of the services. A claimed advantage is that a trust can be more flexible in responding to changing local needs but what mechanism is proposed to facilitate this aspiration? It ought to be possible to mitigate these concerns by careful and anticipatory attention to details when defining the Trust's responsibilities. These should be to continue and develop the services which are entrusted, ensuring their availability throughout the Scottish Borders area. The Trust should bear in mind the important role of cultural services in supporting learning, promoting economic well being and contributing to the creation of strong and healthy communities. The Trust should establish local consultative bodies to provide input on changes to local facilities and any other locally important issue, such as any suggestion of relocation or other disposal of heritage material. SBC Councillors appointed to the Trust's Board of Directors will be there by virtue of their status as elected representatives. They should be mandated to provide SBC with regular and substantial reports on the Trust's activities. These reports would fall within the normal provisions of FOI. A Cultural Services Trust may be an expedient response to existing circumstances but circumstances change. In the future SBC might wish to reclaim some or all of the transferred services. It seems prudent to have an exit strategy at least in outline.

Answer

You raise issues round governance and conflict of interest and in addressing this we will be taking note of advice contained in the Audit Scotland publication "Arm's-length external organisations (ALEOs): are you getting it right". We also have the evidence of what worked well for the other similar Trusts. Other contributors have raised issues around local accountability and we will need to further consider this.

In terms of an exit strategy, the Council will do all it can to make a Trust a success, however, there are always internal and external pressures around that mean a Trust could get into problems. If the Trust were to get into difficulties there would be early warnings through monitoring and through local Councillor representation. This would allow the Council to consider what, if any, additional help it could provide but in the case of complete failure services would revert to SBC and the Council would need to decide which services it could continue to provide and in what manner.

- 15 Cultural services should remain the responsibility of the Council as a matter of principle, libraries, museums, galleries and other cultural provisions are an essential part of life, not an add-on or luxury.

I note, and appreciate your comments on the value and importance of our services and that they should remain a core part of the Council's delivery.

- 16 The following applies to my concerns about the library service, a key educational and cultural resource, rather than museums and halls. The latter two can be successfully run by trusts - they can easily generate funds and charge admission etc. Will the library service then charge for admission and charge for book / computer hire? I realise library and information services are now operating in a changing environment and you need to re-evaluate the service from time to time in a properly considered manner. The study document states the proposal is not primarily about cost saving, but the justification that follows is primarily about cost saving. To run a proper library service costs a certain amount of money, either the council pays this or the Trust pays this. Who will fund the trust? It seems unlikely there will be any real cost savings, it just won't come out of the council budget and Council Tax. In the end the public pays. How is the success of the existing library trusts eg Glasgow measured? By the Council saving money or quality performance of the library function. Glasgow trust has suffered financial difficulties and cuts to the service. Was there any study carried out by qualified librarians into the effect of the proposals or by users? The study published seems to be by management consultants. The precise methods of setting up and funding of the Trust, the level of control by the council, the officers of the trust, the level of competence to run the trust, the inclusion of a qualified librarian all need to be clarified and made public. The provision of an adequate library and education service is one of the prime function of a council. There is concern that the council is abrogating some of its duties either due to lack of funding or lack of capability. We have already had the problems of swimming pools and sports facilities, refuse collection, and now libraries and museums. What is next? What is the statutory duty of a council to provide adequate library facilities? What will happen if the Trust becomes insolvent? The existing library facilities do not compare well with other authorities. The provision of new books seems quite limited. Non-fiction and reference books are quite limited in local libraries and central library. The library in Kelso is now a Contact Centre with books almost as an afterthought. I realise the difficulty for the council because of the small population. Is it time to realise the council simply cannot provide an adequate service, either directly or via a trust. Should we be looking at a joint Lothian and Borders solution? How will the trust library service interact with other council, state run and international libraries. How will the inter-library lending systems work? Will we still have proper access to the British Library? How is the trust accountable to the public? What books (fiction, non-fiction, and reference) were added to stock last financial year? How much was spent on computer-based library resource material? I hope this gives a broad overview of my concerns about the proposed devolving of library services to a Trust.

Answer

You ask a number of questions in your email which I have extracted and answered as follows

Will the library service charge for admission and charge for book / computer hire?

We do not expect that there will be a charge for any of these services

Who will fund the trust?

The principal source of funding will come from the management fee the Council pays to the Trust to deliver the contracted services

Was there any study carried out by qualified librarians into the effect of the proposals or by users?

The options appraisal study was carried out by an independent consultancy who took expert advice from a chief executive of an existing Culture and Sport Trust. Although not a librarian this person's professional background was from one of the services that became part of the trust. The appraisal was discussed with the Library Services senior management team before any recommendation was made to the Council. There are a number of qualified librarians involved in the preparatory work currently being undertaken.

The level of control by the council, the officers of the trust, the level of competence to run the trust, the inclusion of a qualified librarian all need to be clarified and made public.

The Trust will have a board of Trustees who will manage the range of services which make up the Trust. Our current assumption is for a Board of about 12 or 13 Trustees, four of whom will be Councillors. A Job Description and Role Profile will be prepared detailing exactly what will be expected of Trustees, outlining their roles, rights and responsibilities. The vacancies will be open to anyone (except potential Trust employees) and advertised locally. Applicants will be competitively selected on the basis of skills, expertise, knowledge and experience. A selection committee, most likely made up of councillors, will appoint from those who apply and best meet the criteria in the job descriptions.

The Trust will have the same need for professionally qualified staff and there will be a continuing role for qualified librarians both in managing and delivering the service and providing trustees with professional advice.

What is the statutory duty of a council to provide adequate library facilities?

The Public Libraries Act 1887 requires local authorities to "manage, regulate and control all libraries or museums or galleries", and creates restrictions as to how they may charge for these facilities.

Section 14 (1) of the Local Government and Planning Act 1982 required the then district and island councils to "ensure that there is an adequate provision of facilities for the inhabitants of their area for recreational, sporting, cultural and social activities". The term 'adequate' was not defined in the Act, and has not subsequently been defined. This duty of 'adequate provision' was transferred to the new unitary authorities under Schedule 13 of the Local Government etc (Scotland) Act 1994. The 1994 Act also confirms local authorities' power to provide grants or loans to cultural organisations based out with their areas and to "make such contribution as will support and promote music theatre, dance, opera, visual art or other art forms and museums and galleries".

In some respects, the legislation is vague in relation to the principal statutory duties and powers, and, in particular, to 'adequate provision'. As a result there is variation between individual local authorities - which have interpreted it differently, in accordance with their own policy priorities and resource availability.

The legislation does not necessarily require that local authorities directly provide these services but ensure there is provision. Contracting to an arms length Culture Trust to deliver these services is an accepted alternative means of service provision.

What will happen if the Trust becomes insolvent?

The Council will do all it can to make a Trust a success, however, there are always internal and external pressures around that mean a Trust could get into problems. Officers are doing lots of preparation including talking to other Trusts in order to reduce risks. If the Trust were to get into difficulties there would be early warnings through monitoring and through local Councillor representation. This would allow the Council to consider what, if any, additional help it could

provide but in the case of complete failure services would revert to SBC and they would need to decide which services it could continue to provide and in what manner.

How will the trust library service interact with other council, state run and international libraries.

How will the inter-library lending systems work? Will we still have proper access to the British Library?

The Library Service delivered via the trust will still continue its links with professional bodies, and other library organisations. There will be no change to the inter library loan procedures.

How is the trust accountable to the public?

The most obvious element of public accountability will be the inclusion of Councillors as Trustees.

What books (fiction, non-fiction, and reference) were added to stock last financial year? How much was spent on computer-based library resource material?

Last year we spent c £152k on new book stock (including audio books) which include new titles of 12,234 fiction, 4,247, non fiction and 3,147 reference. We spent a further £26.5k on electronic resources including e-audio books. This year we have launched a e-book lending service and will undertake a complete upgrade (hardware and software) of all our public access PCs at a cost of c£120k.

- 18 The idea of transferring the services to a trust is disgraceful and diabolical. The SBC has done a great job - leave it alone. We need accountability - that's what this Tory-style proposal is designed to evade. Stop privatising everything! It is a bad, useless and reactionary idea, and will take us back to the 19th century - which is what the Tories want. If there's a problem - RAISE TAXES, especially on the rich, who are getting away with murder - literally in too many cases. The poor are being murdered by this endless policy of austerity and creating cultural and social deserts everywhere.

Thank you for your comments. We will be preparing a summary of all comments received which will be made available to elected members before a final decision is made.

- 19 While acknowledging the reality of SBC's need to save money, I have the following observations on why I consider the proposal of the Trust option is not a good one for Borderers. These are not based on ideology: I actually agree with a fair amount of transferal of public assets and services to the voluntary and private sectors.

I am no financial expert but such a huge upheaval strikes me as a sledgehammer to crack a nut, to achieve savings of the relatively small sum of £276k in property rates.

I've worked professionally with community groups and volunteers, and am also a volunteer myself. I know how hard it is in the Borders to attract quality individuals who have the knowledge, enthusiasm, capacity, time and commitment to take on pivotal roles in trusts such as the one being recommended. Such a diverse range of services will require a huge range of expertise to keep it on track. Our pool of citizens is far too small and dispersed to be confident of finding and keeping Trust members on whom the Borders would be relying to deliver these services. Cities like Glasgow are better placed for this.

Scottish Independence would seriously reduce the funders this Trust could apply to for funding. Given that increasing numbers of Scottish councils are going down this route, there will be increasing demand for any available funding, whether Independence happens or not.

Many of these facilities, e.g. community centres and libraries, cater for the most vulnerable and disadvantaged groups in society. That SBC is able to consider hiving off such facilities to a Trust means they are not a "core" function of the Council, however I believe most Borders residents will consider that they should be treated as such.

I have some suggestions. Of all the services which should remain in SBC's portfolio, Libraries and Halls/Community Centres are the most vital. I've benefited personally from Arts Development, but still don't feel this is as vital to the entire Borders community as the ones I've listed above. Of all the services, the Heritage Hub has the greatest potential, I feel, for "going it alone", given the interest in genealogy and the "industry" which has sprung up around it.

Thank you for your email and comments regarding the possible establishment of a Culture Trust. We will be preparing a summary of all comments received which will be made available to elected members before a final decision is made.

- 20 Our Community Council is hearing from SBC Officers and Local Cllrs that community services are under review with the objective of reducing costs. To understand this better can you please supply us with information showing precisely which community services are mandatory and those which are non mandatory services.

Answer

The services we currently provide are

- Library and Information Services
- Museums and Galleries
- Archives
- Public Halls
- Community Centre
- Cinema/Theatre
- Arts Development

You ask specifically which services are "mandatory".

With regard to the Statutory framework there are three main statutes which are relevant -

- Public Libraries Consolidation (Scotland) Act 1887
- Local Government and Planning Act (Scotland) 1982
- Local Government (Scotland) Act 1994

The Public Libraries Act 1887 requires local authorities to "manage, regulate and control all libraries or museums or galleries", and creates restrictions as to how they may charge for these facilities.

Section 14 (1) of the Local Government and Planning Act 1982 required the then district and island councils to "ensure that there is an adequate provision of facilities for the inhabitants of their area for recreational, sporting, cultural and social activities". The term 'adequate' was not defined in the Act, and has not subsequently been defined. This duty of 'adequate provision' was transferred to the new unitary authorities under Schedule 13 of the Local Government etc (Scotland) Act 1994. The 1994 Act also confirms local authorities' power to provide grants or loans to cultural organisations based out with their areas and to "make such contribution as will support and promote music theatre, dance, opera, visual art or other art forms and museums and galleries".

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The legislation does not necessarily require that local authorities directly provide these services but ensure there is provision. Contracting to an arms length Culture Trust to deliver these services is an accepted alternative means of service provision.

The legislation for Archives only requires that the Council makes arrangement for the retention of its own records, ie that of Scottish Borders Council and earlier authorities – e.g. town councils, district councils.

The Council's proposal to transfer services to a Culture Trust has all of the services currently provided, and listed above, in scope.

21	<p>Thank you for today's e-mail. Clearly, the prospect of community centres moving into a trust is a major one and maximising the information available, even before further consultation, is important. Is it possible for us to access the cultural services report at this stage?</p>
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	<p>In reply to your email. The report can be found at http://councilpapers.scotborders.gov.uk/agenda.asp?meetingid=2910. During April and May we will be organising meeting with Community Centre management committees to discuss the possible inclusion in more detail.</p>
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