

EMPLOYMENT COMMITTEE	AGENDA ITEM No. 3
22 MARCH 2010	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Matthew Lee - Cabinet Member for Environment Capital and Culture	
Contact Officer(s):	Mike Kealey, Acting Head of HR	Tel: 384500

CULTURE TRUST

R E C O M M E N D A T I O N S	
FROM : Councillor Matthew Lee - Cabinet Member for Environment Capital and Culture	Deadline date : N/A
<p>1. To consider and recommend appropriate actions, where necessary, in response to executive proposals to transfer the delivery of the following services to Peterborough Culture & Leisure Trust (PCLT):</p> <ul style="list-style-type: none"> - Arts Services (to include the Key Theatre and the Gallery) - Heritage Services (to include Peterborough Museum) - Library Services (all services) - Sports Services (all services) <p>2. To note that the transfer will take place on a future date to be determined, anticipated to be 1 May 2010 and will involve the transfer of all staff in those services under the Transfer of Undertakings (Protection of Employment) Regulations 2006. This will include second tier posts and therefore must be considered by Employment Committee under its delegation at Part 3, section 2.3.1.5 of the Constitution.</p>	

1. ORIGIN OF REPORT

- 1.1 This report has been requested by the Cabinet Member for Environment Capital and Culture.

2. PURPOSE AND REASON FOR REPORT

- 2.1 To seek the views of Employment Committee on an executive proposal to transfer services to Peterborough Culture & Leisure Trust.

- 2.2 A decision was taken by Cabinet on the 12 October 2009 to move forward a proposal to create a trust for the delivery of cultural services. The formal decisions taken by Cabinet were:

- √ To give authority to the Director of Operations to commence the process of establishing a not-for-profit distributing organisation (a 'trust') subject to the decision of cabinet and the appropriate TUPE consultation with staff.
- √ To approve the inclusion of the following services within the scope of this work: Arts (including the Key Theatre and Gallery), Heritage (including the Museum), Library (all existing services) and Sports Services (all existing services).
- √ To approve a detailed full options appraisal of bereavement services (including the crematorium), to identify the optimum way of delivering this service.

- √ To agree to the formation of a shadow board as part of the process of establishing a not-for-profit distributing organisation (a 'trust').

3. **TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	NO
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4. **TOWARDS A CULTURE TRUST**

- 4.1 Cabinet considered a number of ways that the Council could deliver and develop cultural services. The optimum delivery method for Peterborough has been the subject of consideration since the Council's Best Value review in 2004. Key to this review was a study by KPMG (2005) which was enhanced by a report produced by Deloitte in October 2006. This work has recently been refreshed by leading leisure trust solicitors Lawrence Graham.
- 4.2 These reviews considered, amongst other options: in-house delivery, tendering for a commercial operator, a mixed approach to delivery of services and the formation of a trust. The first two reports focused on key evaluation criteria including: enhancing quality of service, promoting Peterborough, improving levels of participation and value for money. Their conclusion was that a trust would provide the best delivery option to meet the Council's aspirations. The work of Lawrence Graham has re-confirmed the suitability and deliverability of this option.
- 4.3 As with all management options there are advantages and disadvantages in delivering services through trust status, and these are due to be considered in detail by Cabinet at its meeting on 22 March 2010.

5. **CONSULTATION**

- 5.1 Cabinet were appraised of the following consultations: on the 11 February 2009, the Community Development Scrutiny Panel explored the principle of all of the Council's cultural services being delivered through a trust. The delivery of bereavement services through a trust was given specific scrutiny by Members of the Panel. In addition, the Strong and Supportive Communities Scrutiny Committee received an update on the 10 September 2009 on the work undertaken to explore the formation of a trust and a further update to Scrutiny is being provided on 18 March 2010.
- 5.2 On the 10 June 2009 the Business Transformation Savings Board approved the content of a business case to create a trust should Members wish to proceed with the recommendation of this report.
- 5.3 Consultation has been taking place with staff and Trade Unions including formal staff consultation over the potential transfer to a trust under The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

6. **ANTICIPATED OUTCOMES**

- 6.1 That Employment Committee explore the implications of the proposed formation of a trust to deliver cultural services, in relation to the changes within the structure of the Operations Department, and recommend appropriate actions where necessary.

7. **REASONS FOR RECOMMENDATIONS**

- 7.1 To enable Employment Committee to consider the executive proposals, in accordance with their terms of reference.

8. ALTERNATIVE OPTIONS CONSIDERED BY CABINET

- 8.1 In July 2005 KPMG concluded a study which explored a range of options for the then Culture and Recreation Services section of the Council. This review covered in-house delivery, tendering for a commercial operator, a mixed approach to delivery of services and the formation of a trust. This study was followed up in October 2006 by a review by Deloitte which considered the same options. The studies concluded that the optimum way of delivering the kind of cultural services desired by Members was through a trust. Both the KPMG study and the Deloitte study was reviewed by leading leisure trust solicitors Lawrence Graham; their conclusion, following a review of the services, was that the delivery of services through a trust remained the optimum way of delivering those services.

9. IMPLICATIONS

- 9.1 The implications for the Council are wide spread. The Council's legal, financial, property, human resources, information technology and communications teams are key players in the project team that has been exploring and will be perusing the formation of the Trust. The relevant issues in relation to each area are set out fully in the report to the extraordinary meeting of Cabinet on 22 March 2010.

10. LEGAL

- 10.1 The transfer of relevant employees to the Trust will be compliant with the requirements of the Transfer of Undertakings (protection of employment) Undertakings 2006. This is explained in the HR section below.

11. FINANCIAL

- 11.1 Detailed financial implications of forming a trust have been included in the report produced by Consultants Lawrence Graham and this includes an analysis of the benefits and costs associated with forming a Non-Profit Distributing Organisation (NPDO).
- 11.2 As mentioned within the HR section of this report there will be a financial implication in respect of the need to ensure that employees are provided with the same or broadly comparable pension rights prior to any TUPE transfer. An application for "Admitted Body Status" has been made and approved, subject to legal agreement sign off in respect of existing employees who are members of the Local Government Pension Scheme. It is intended that new employees joining the Trust will not be able to access the LGPS pension scheme, but will be able to access a Defined Contributions Scheme, with an "employer" contribution level of 6%.

12. HUMAN RESOURCES

- 12.1 The establishment of a trust as proposed will involve employees transferring under TUPE, thereby legally protecting their current contractual terms and conditions (pensions are dealt with below) and continuous service. To ensure a successful transfer under the relevant legislation, effective consultation with both Trade Union Representatives and staff is required. Consultation has taken place with the Joint Consultative Forum since 29 June 2009 with a total of 6 meetings on the potential transfer to date.
- 12.2 The Council are currently working with Cambridgeshire County Council Pension Service to enable transferred staff to remain in the Local Government Pension Scheme; via an 'Admitted Body Status' pension scheme. This will ensure all employees retain existing pension benefits.

13. BACKGROUND DOCUMENTS

- 13.1 Lawrence Graham report into the formation of a culture trust for Peterborough.
- 13.2 KPMG study 2005
- 13.3 Deloitte study 2006
- 13.4 Cabinet report for meeting 22.03.10