

Report to full Council 23rd November 2017

UNISON Report regarding Alternative Delivery Model Proposals

Recommendations:

1. To delay any final decision on the proposals - to move to Alternative Model of Delivery - until the final financial position is known following the Scottish Government spending review in December and the formal outcome of the Barclay Review.
2. If the decision is made to go ahead, to build in staffing protections including:
 - a. Agreement to adhere to SJC (Scottish Joint Council) Terms and Conditions
 - b. Trade union membership as advisor on the management board in line with IJB (Integrated Joint Board)
 - c. Agreement between Aberdeenshire Council and the "Trust" to have reciprocal redeployment arrangements.

Background/Discussion:

Aberdeenshire Council has - for a number of years - considered the option of delivering sport and culture services through the medium of an arms length trading company - a Trust.

This option began to be examined with more enthusiasm during the last two years, with various reports being presented and discussed in both Education and Childrens Services Committees and at Full Council.

The Council, thus far, have supported plans to move to a Trust, supporting claims that the trust model will potentially:

- improve services and delivery
- save money
- increase income through donations and day to day usage
- ...that other council services - that utilise the facilities - will continue to have free access.

UNISON has had - and continues to have - concerns about the proposals and the potential benefits that are believed to arise from adopting a trust as a model for delivering these services. UNISON has a great deal of experience elsewhere in Scotland and Britain with regards to the adoption of trusts.

A summary of national concerns/problems are included with this report (**Appendix 1**).

UNISON has had ongoing dialogue with its members locally throughout the process and the last meetings having taken place in September 2017 and **Appendix 2** is a report on the feedback received from those staff present at those meetings.

Included at **Appendix 3** is a copy of a letter sent by UNISON Scotland to Derek Mackay about specific concerns of the Barclay review and its impact on services within ALEOs and Local Councils.

Implications and Risk:

UNISON believes that to go ahead at this time - prior to the Scottish Government budget allocation - would be unwise. This would leave the council open to unknown costs which could have major unplanned risks/consequences on the council and delivery of services.

To go ahead - knowing that the costs of doing so could be increased rather than savings - can only mean that the services, or the council as a whole, would need to reduce spending in other areas. This, on top of an already anticipated reduction in financial settlement, could lead to a greater service reduction across these and other council services.

To consider the costs of taking these services back in house, should in future a decision be made that the trust model is not suitable, and the impact that could have on the councils' finances and future delivery of services.

Appendix 1

National Perspective on Adopting a Trust Model

ALEOs have been established by many local authorities across Scotland, principally as a way of exploiting savings in VAT and business rates. The council may or may not have moral qualms about utilising a public tax dodge. Recent and selective examples are often quoted to demonstrate the success of ALEOs, but academic evidence recognises that the medium and long-term experience is under-researched.

However, from the experience of UNISON branches (in Scotland, but also across the UK), there are a number of issues which any authority ought to consider prior to embarking on an ALEO. Additionally, if the decision is made to take this route, local authorities should be aware that any issues may not arise straight away, and there should be costed contingency plans in place to revert control to the council. There can be vested interests in the creation of ALEOs, with a perception of “the grass is always greener”.

Companies law places a personal responsibility on all board members of a company to always act in the interests of the company and to abide by commercial confidentiality. This could clearly come into conflict with their role as councillors, either in their direct responsibility to the council or the community they were elected to represent.

After the initial couple of years of operation, ALEOs increasingly see themselves a distinct from the council and with distinct priorities. This has led to tensions in some places; Falkirk has experienced such issues. However, the public will still expect the council (and councillors) to be ultimately accountable for the actions of an ALEO. Local accountability, especially in rural areas with greater distances between facilities and strong community councils, has been a major issue.

This means that councils have had to bail out, provide additional funding to, ALEOs if financial problems occur. Because ALEOs have fewer options for making savings than the council overall, they have sometimes made bigger cuts to services. Where these cuts fall is outside of the control of the council (Aberdeen City’s ALEO recently closed two swimming pools). In addition, it is rare for them to have successfully obtained significant outside grants, and they can have a higher cost of borrowing than the council.

There are other financial issues to take into account. Equal pay has been an issue in some authorities (such as Glasgow), as councils have been deemed “associate employers” and pay can be compared across organisations. There is also the cost of pension liabilities, and state aid rules to consider when the council is providing hidden subsidies to ALEOs. Leisure ALEOs in particular can be in competition with private sector alternatives.

UNISON has generally experienced a poorer level of HR in ALEOs, particularly after the initial phase of support from the parent authority, possibly because they are

smaller enterprises and have less management and HR experience. This has caused some disputes, and led to ET claims in some places (for example, Renfrewshire).

Some ALEOs have had problems retaining good managers because career opportunities are fewer in smaller organisations, and the research which exists (for example in the museums sector) indicate little evidence of improvements in management.

Finally, there are issues around the fragmentation of services. In Angus, we have experienced problems around co-located Leisure Centres and Schools. A school may decide to close at a certain time, thus physically 'blocking' access to a leisure centre or library. As public services are squeezed, more integration is a way of increasing efficiency. This may still be possible with an ALEO, but will be enormously more complicated and probably more expensive. There are also potential issues around fragmenting leisure and health services as IJBs start to develop.

Appendix 2

Staffing/UNISON Concerns on adopting a Trust Model

Throughout the process of the council investigating the possibility, UNISON has met with, and discussed the issues raised by, the staff potentially affected by the move to an arms length sport and leisure trust. The last meetings occurred during the month of September, where UNISON held a series of meetings in every large settlement area in all areas of Aberdeenshire.

A number of themes emerged from the staff about the move/potential move to a trust. There is a list of consistent themes throughout the feedback that cover all the areas and some that are more specific to particular areas or services. These are:

- a. Fear over future service delivery
- b. Fear over the sustainability of the “Trust”
- c. Fear over pay and terms and conditions
- d. Fear over job cuts
- e. Fear that a decision will be made soon without having the full facts
- f. That staff ideas - to help the current situation - have not been asked for/listened to which could have reduced costs/increased income without a move to a “Trust”
- g. That in a smaller employer, the chances of securing alternative employment - should there be potential redundancies.

Service issues, including:

1. Culture/Museums etc
2. Libraries
3. Sport/Leisure

Below are details of the above comments:

- a. Fear over future service delivery:

The members that spoke to us are very proud of the services that they deliver to the people of Aberdeenshire and describe their services as being the hub of local activity; particularly in some of the more rural and smaller settings. They spoke about how the community use these settings; either as meeting places or communal activity which enhances the wellbeing of the individual, either physically or mentally and the communities around them.

Many fear that a move to a more commercial model, through a Trust, could see the closure of smaller resources that, although on the surface appear to be minimally used but instead are vital to the wellbeing of the community around them. They believe the council has a commitment to maintain health and wellbeing of their communities. A Trust may not see this as a priority when operating with a tight budget and a more commercial outlook.

b. Fear over the sustainability of the Trust:

Many staff are aware of, and know, those working for other trusts in existence throughout Scotland. These staff talk to each and share experiences. Many report that they are aware that those trusts in existence struggle to recruit and then retain suitable board members. This can lead to either inactivity from the board or poor decisions being made which can affect the running of the board.

Staff feel that could lead to a failure to deliver good quality appropriate services to inappropriate cuts in services and failure to achieve the aims proposed by the council. Staff know that, if a trust fails then, if the council need to take back in house, then the costs associated are extremely high which could lead to further cuts to services and job losses.

c. Fear over pay and terms and conditions:

As described earlier, many staff have knowledge of other trusts and speak to staff employed in them. Staff report that many staff are initially given a pay rise but in subsequent years face no pay rise at all. Some even reporting pay cuts. These all leave staff falling behind their former colleagues that have remained employed by the council. They are aware of the industrial unrest in other trusts as a result of this. Without guarantees of remaining in parity with other colleagues within the council, many report being extremely concerned about a move to the trust. The same concerns exist around national terms and conditions; including annual leave, sick pay etc.

Without guarantees that pay and conditions of service are going to remain in parity to their colleagues within the council, many indicate that they would be very unhappy/unwilling with a move to a trust model of delivery.

d. Fear over job cuts:

Many staff are concerned that - with a move to a trust particularly if it could cost the council more to do so - will mean that there will be a need to save money and staff are aware that could mean job cuts and redundancies.

Staff report they are working much harder and doing duties that were once the remit of their managers. So, they are doing more on the same grade. These staff fear that, as more jobs are cut from the service, they will be expected to pick up even more duties and be left either unable to do everything in the time or become ill through stress.

Staff also fear that, if there are job cuts, either they will be expected to travel to cover many locations and also that some facilities will be closed.

e. Fear that a decision will be made too soon, without all the facts:

Staff are fully aware why the move to a trust was being considered. Initially they were quite supportive that the service could continue to run but would save a significant sum of money through non domestic rates relief. This seemed to make sense but since the publishing of the Barclay Report on non domestic rates, they cannot understand why the Council is continuing to progress the proposal of a Trust when it could be that the trust, instead of saving money, could actually cost more - on top of the initial set up costs.

Staff have indicated that, rather than to rush a decision now, they would be much more comfortable/happier with a delay in the decision until all facts are known. This will enable the council to plan appropriately, minimise unnecessary costs/expenses and risks.

f. That staff ideas - to help the current situation - have not been asked for/listened to which could have reduced costs/increased income without a move to a "Trust":

Staff know that the financial situation for councils is getting harder and harder each year, with the reductions in budgets and the increase in demand. Staff are aware that it is more and more likely that there will be a need to reduce staffing levels and services. If there were to be a staffing reduction, staff wholeheartedly reported that they would prefer to be within the council with agreed policies and practice. They also indicated strongly that, if reductions occurred within the council that there is support available and a much larger workforce with a variety of roles, which would mean that they had a greater chance of securing redeployment rather than redundancy.

As described previously, staff speak to colleagues in others areas that have adopted trusts and hear the stories where cuts have taken place and staff were left without jobs and felt extremely unhappy with the way they were treated and felt that very few options were open to them.

g. That in a smaller employer, the chances of securing alternative employment, should there be potential redundancies:

As indicated above, staff feel that if there are to be reductions in services and reduction in the number of staff needed to deliver those services, that they would much prefer to be part of the council where they believe things will be managed properly and there will be a much greater chance of securing alternative employment.

Service Issues:

1. Culture, Museums etc:

Staff within the museums culture service are very fearful of the future of their service. The service does not really provide any significant income for the council and, in fact, could be seen as a cost to the council. Staff within culture and museums believe they play a vital role in educating the public of the rich diversity of Aberdeenshire, its amazing heritage and that of the wider world. They feel they are at risk and will be, more so if the trust goes ahead.

They feel their service would be an easy target for closure and/or being transferred as a community asset. This leaves these staff feeling very vulnerable at the moment and even more so should the service be transferred to a trust. At present, culture and museums have close working relationships with council facilities, schools, early years establishments, learning disability and older peoples services. They fear the move to a trust will diminish this.

2. Libraries:

Libraries are not just about book lending; that is clear from book lending statistics. Libraries are about inclusion, literacy, mental health, accessibility and much, much more. In our more rural locations, libraries are often the only public space available where people meet and perhaps get their only human contact during the day. Library staff are passionate about their role and the impact they have on their local community. Library staff are extremely fearful of the impact that moving to a trust will have on their ability to continue doing and expand the work that they do. They fear that smaller libraries will close, leaving communities bereft of facilities, older people being forced to travel to access books, internet, companionship. Young families forced to travel to access services. They feel that larger libraries will become more commercial, charging for childrens storytime, knit and natter etc, forcing those on low incomes out of the service.

At present, libraries work very closely with schools. Will this continue if there is something that will potentially make more income instead? The staff believe that, if a move was made to a trust without there being any savings generated then they fear they will be at the frontline of the cuts. Staff in libraries have often met with colleagues from other areas, many of which have been moved to trusts. Many were invited to visit areas to see a trust in action. Although some reported having met with others that were positive about the move to a trust, before the Barclay Report implication, they also indicated that they all reported changes that were disruptive that changed services they offered and the charges of these services.

Libraries want to remain a service at the heart of the community and to provide services to meet the needs of the people. They fear a trust will not allow them to do so.

3. Sport and Leisure:

Traditionally, it was believed that staff within sport and leisure were supportive of the move to a leisure trust with a more commercial approach to delivering services.

Having met with staff, it was clear that some leisure staff were unhappy with the council; believing that they have suffered at the hands of council changes to terms and conditions, some reported losing upto £8000 per year through the loss of shift allowance and the reduction to premium rates for unsocial hours etc.

This having been said, many of these staff are aware of difficulties in other local authorities that have adopted the trust model- both nearby and throughout Scotland - where staff have not had any pay increase for a number of years and services have been closed.

Prior to the Barclay Report, many staff were still willing to see if the trust would improve the services they offered and their income. However, since the publishing of the Barclay Report, these staff are now indicating that they feel making a decision to move to a trust before it is known how this will impact on finances , would be unwise.

Staff said that, if the Barclay Report is implemented and there are no savings on moving to a trust, they would prefer to remain within the council where they would have more chance of redeployment should cuts be needed. These staff also reported that the Council could currently make more money and more use of the services they offered by speaking with the staff, many of whom had ideas which they believe could help.

Conclusion:

From UNISON's discussion and meetings, with members, it is clear that staff have reported that they believe making a decision to move to a trust, before the final outcome of the Barclay Report, is not something they wish to see. Those staff that spoke to us said that they are generally against the proposal at this time.

That, even if the full anticipated savings are made, many fear for the future of their jobs and services.

That staff need the re-assurances that their future, although never certain, is protected as far as possible.

That re-assurances are given that the services they perceive to be vital to the people of Aberdeenshire are maintained and protected.

Appendix 3

Our ref: DW/HS

Your ref:

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7 November 2017

Dear Derek

Barclay Review

In your recent announcement on the Barclay Review of non-domestic rates, you indicated that you were giving further consideration to the recommendation to remove rates relief and the associated funding from Arms' Length External Organisations (ALEOs). UNISON Scotland is the largest trade union representing staff in the leisure and cultural services provided by these organisations and I am writing to set out our concerns over this recommendation.

UNISON warned when these organisations were established that tax avoidance was not a sound basis for public service reform. This was the primary driver for creating these organisations in the context of cuts to the funding of local authorities. In principle, we would not therefore oppose the ending of this exemption, but only if the Scottish Government compensated councils for the full cost.

The remit you gave to the Barclay Review was that the review had to be cost neutral. It is not cost neutral simply to pass the cost of reform onto others, in this case the ALEOs and the local authorities who fund them. We understand that the real cost could be much higher than the £45m Barclay Review estimate, if councils had to replace this funding stream.

ALEOs are already under significant financial pressure as a consequence of council revenue cuts. Our members report cuts to services under the current financial circumstances and a further cut of £45m+ would constitute a very significant element of the already modest budgets. It will result in the closure of a range of facilities.

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General Secretary Dave Prentis Scottish Secretary Mike J Kirby

Members report that posts are already not being filled, morale is low and staff are working to capacity to maintain services. These concerns were reflected in a surveyⁱ of UNISON members in leisure trusts. Almost half (45%) report some level of cuts in staff with a further 27% saying that the staffing reductions have been major. As one member put it:

“The majority affected with stress, working hours longer than the working time directive and our employers do not care. I have regularly as have my colleagues been required to do roles above our level of responsibility without training or additional pay.”

Members also highlight the impact of cuts in a variety of ways. Facilities open for fewer hours, fewer activities being run, or less outreach and community work. Reductions in staff numbers mean that classes either don't run or numbers are restricted. That this can be a short term gain long term pain decision is pointed out by many staff. If activities don't run the revenue isn't brought in.

Neither is it simply a case of people not being able to use services because they are withdrawn. Our members highlight examples of clubs abandoning their pursuit after they could no longer meet increased or newly introduced charges.

It is also the case that, many charges have outpaced inflation in recent years and increases in earnings even more so. A 2013 report by Audit Scotland points out that one of the purposes of charging is the raising of revenue and councils have looked increasingly to charging regimes to make up the difference due to funding cuts. Sport Scotland also conducted a survey of charging in leisure trusts, which showed charges had increased by more than inflation in 10 out of 19 categories.

Similar concerns about the impact of cuts in services have been highlightedⁱⁱ by our members in libraries, many of which have also been transferred to ALEOs. The Scottish Government announcement that every child in Scotland will be given a library membership card is clearly worth welcoming as a step to promote libraries and indeed literacy. However, it does prompt the question *‘What is the point of a library card if there is no library? Or if the library you can get to has precious few books or other facilities’*.

Many leisure trusts work with schools to promote healthy lifestyles, operating schemes such as ‘a quid a swim’ during holidays. They also work with health colleagues to deliver services that help with mobility issues and operate programmes to tackle obesity. We should also not underestimate the threat to wellbeing of cuts to cultural services and the economic impact of further closures on library services.

If services are cut as a result of the Barclay review, then programmes such as these will not be sustainable and in the longer term will have a negative impact on health outcomes. Leisure services are precisely the sort of preventative spending identified by the Christie Commission, principles which the government claims to support.

The Barclay Report's reference to a “level playing field” with private operators is misleading. Public leisure and cultural services are not competing with private leisure facilities - even the busiest swimming pool does not make a profit due to energy and staffing costs. Other services have no private sector comparator.

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These facilities are often in areas which the private sector would regard as unprofitable and are therefore an important part of any strategy to reduce inequality. Sport and leisure should be for everyone, not just those who can afford it. The marginal surpluses leisure trusts can make from running gyms or cafes are invested directly into maintaining services.

Attempts to privatise leisure trusts in Scotland on the English model have rightly been rejected when such proposals have been subjected to democratic scrutiny. Such models are driven by profit and the excessive remuneration of senior managers, rather than a public service ethos.

In conclusion, while we understand the technical grounds for the Barclay recommendation, the focus must be on funding and impact on services. It is not neutral to shift costs onto councils. The economic benefits of a scheme like the Small Business Bonus are at best marginal, while the health and wellbeing gains of leisure services are undeniable.

There is a legitimate debate to be had about the value of the trust model. However, the focus here and now must be on the impact further cuts will have on these key services.

I hope this is helpful and we would of course be pleased to discuss this issue further at your convenience.

Yours sincerely

Dave Watson

Dave Watson
Head of Policy and Public Affairs

ⁱ http://www.unison-scotland.org/library/WhileWeWorkYouPlay_LeisureStaffSurvey_June2015.pdf

ⁱⁱ http://www.unison-scotland.org/wp-content/uploads/ReadItandWeep_LibrariesStaffSurvey_Sep2015.pdf