

**REPORT TO EDUCATION LEARNING AND LEISURE COMMITTEE –
27 OCTOBER 2016**

**CULTURE, SPORT & CLD - ALTERNATIVE SERVICE DELIVERY MODEL –
UPDATE**

1 Recommendations

The committee is recommended to:

- 1.1 Note that the process of considering alternate delivery models is in the context of the report agreed by Full Council on 18th June 2015, “A report by the Scrutiny and audit committee on alternative delivery models”;**
- 1.2 Note the report and comment on the Outline Business Case before it is presented to Full Council;**
- 1.3 Agree that any future work on an alternate service delivery model does not include Community Learning & Development;**
- 1.4 Note the plans to proactively engage with key stakeholders, including staff and their representatives, and third sector partners, throughout this process; and**
- 1.5 Note that any decision to proceed with development of a Full Business Case for a charitable trust, whilst significant both in terms of scope, workload and financial investment, does not commit the Council to any future course of action.**

2 Introduction

- 2.1** The Council and its partners in responding to the changing economy in the north east recognise that competition for inward investment will become increasingly challenging for Aberdeenshire in the decades ahead; and that this will be taking place during a challenging financial period for the Council and the public sector. One of the key factors in inward investment decisions is the quality of life elements – which includes local communities which can offer good cultural, leisure and sporting opportunities. The Council has a very good record of capital investment in developing sports facilities, and maintaining its sport and cultural services, with a healthy mixed economy locally.
- 2.2** The challenge for the Council is how to sustain – and create conditions for continued growth – in sport and cultural services in the budget context ahead. This will include consideration of different ways of doing things. There is already evidence of innovation in service delivery, looking at new structures which retain the Council's public service ethos whilst seeking the most effective models, tailor made to best fit specific areas of service.

- 2.3 There is increasing evidence from across Scotland of using charitable trusts to deliver sport and culture – with 30 out of 32 local authorities using this model. Over the past few years, there has developed considerable experience of successfully using a wholly-owned charitable trust as a part of a local authority’s range of delivery mechanisms to leverage the most financially and operationally attractive context for sustaining leisure and culture jobs and services.
- 2.4 In these other authorities the charitable trust model ensures that the Council’s ongoing investment continues to deliver against its priorities in health and wellbeing, regeneration, and learning. Scrutiny and accountability is maintained, whilst externalising a significant degree of operational risk. Whilst the Council maintains ownership of the trust, and all the physical assets, the board of directors recruited by the Council provides an opportunity to bring in a wide range of experience and expertise from successful business leaders, representatives of users and communities and the voluntary sector.
- 2.5 In this context the Council commissioned Ernst & Young to research the best model specific to the Council’s circumstances. They have been given access to the financial and operating data of the Culture Sport & CLD services, and concluded that there could be betterment in excess of £1m pa, as well as the operational benefits noted above from a Council-owned charitable trust.
- 2.6 This report outlines their findings, both for the trust option and four other options, as well as outlining the next steps in further investigation if required.
- 2.7 The Head of Finance, Head of HR&OD and the Monitoring Officer within Business Services have been consulted in the preparation of this report and their observations have been included in the report.

3 Background

- 3.1 At its meeting of 24th March 2016 the Education Learning & Leisure Committee agreed a report, “Culture Sport & CLD – Alternate Service Delivery Options”. The report noted the potential operational and financial benefits to the Council of alternative service models for delivering some or all of the services within the Culture Sport & Community Learning and Development sections. The report was based on the work of a cross-Council group which had been researching a number of alternative delivery options for a number of months. It was noted that the service would commission an ‘Options Analysis’ to test which best delivered the Council’s aims and objectives.
- 3.2 Following the committee consideration a tender process appointed Ernst & Young to undertake this analysis and develop an Outline Business Case (OBC) to inform elected members further consideration. Ernst & Young have concluded this work and this report presents their findings. .

4. The options analysis

- 4.1 There is no off-the-shelf tool available specifically for reaching a decision about delivery models. The report to Education Learning & Leisure Committee noted that any consideration of alternate delivery models would be

in the context of the Scrutiny & Audit Committee's report which was agreed by Full Council on 18 June 2015. This report has been at the forefront of the consideration. Importantly the Committee's report recommends that before pursuing external delivery models all other avenues should be explored.

- 4.2 The options analysis is included as part of the OBC, which is one of three stages in a typical project management framework. The project management approach and the Treasury Greenbook "five case" methodology used by Ernst & Young is summarised as Appendix One.

5. The Outline Business Case

- 5.1 The OBC considered five structural models and found significant operational benefit from two of those models compared to the status quo. These were:

Option 2 - "Enhanced" Status Quo (Direct Service Organisation)
Option 5 – Wholly-owned charitable trust

Option five was the preferred option. Option Two was a close second, with the status quo coming third.

- 5.2 The OBC analysed the financial implications of both options, based on extensive financial and operational data provided by the Council to Ernst & Young. On the assumptions in the OBC, this is calculated to be:

Option 2 – Enhanced Status Quo (DSO)	Net cost of £300k pa
Option 5 – Wholly owned charitable trust	Net benefit of £1.042m

- 5.3 Having identified such considerable difference in benefits with one option (Option 5 – Wholly owned charitable trust) the OBC then goes on to outline some of the practical considerations of exploring the option further, and the benefits to the Council if it is agreed. This comprises the management and commercial cases.

- 5.4 A fuller summary of the outcomes of the options analysis and the five case review is included as Appendix Two. The full OBC is included as Appendix Four to this report.

- 5.5 Properties considered as part of the OBC includes sports centres and swimming pools, libraries, museums and Macduff Aquarium along with community centres. Where any of these facilities are co-located in shared buildings, this is taken in to account in the OBC. A Full Business Case will consider facilities currently managed by the services but not included in the OBC.

6. In-scope services

- 6.1 In the report to ELL Committee on 24th March 2016 it was noted that the Culture, Sport and Community Learning and Development services would be included in the options analysis, reflecting the Council's management structure. During the options analysis officers identified significant differences in ethos, approach and professional context between the Sport and Culture

Services, and the services offered by Community Learning & Development (CLD).

- 6.2 The Project Board considered this and established a number of others areas (detailed in Appendix Three) in which this dichotomy was reinforced. On this basis the Project Board agreed to recommend to elected members that should members agree to commission further work to develop a Full Business Case examining the establishment of charitable trust, CLD should be excluded from the exercise at this stage.
- 6.3 This change is not anticipated to significantly impact on the NDR and VAT benefits, since CLD is not responsible for property, and has a small VAT footprint compared to the other two services. This will change some of the financial information in the OBC, and potentially impact on the savings identified, however further work is required to substantiate this position.

7. Establishing a wholly-owned charitable trust

- 7.1 The OBC demonstrates the benefits of a charitable trust and outlines different legal models available to the Council. It recommends establishing a Company Limited by Guarantee, with charitable status. This is a well-established legal vehicle, with clear protection and familiarity under the Companies Act. Ernst & Young, in the OBC, note that, contrary to public opinion. Charitable trust status is not a form of privatisation.
- 7.2 The trust model changes the Council's role from being a direct deliverer of sport and cultural services to being a facilitator of those services. The Council would be the sole "shareholder" of the subsidiary, and would continue to provide the majority of its operational budget. The model facilitates effective strategic alignment with the corporate objectives which sport and cultural services already deliver:
- Contributing to economic regeneration, civic pride and sense of place
 - Contributing to wider achievement and attainment in education and lifelong learning
 - Contributing to health and wellbeing
- 7.3 The trust model also provides for contractual arrangements which ensure strong scrutiny and accountability to elected members through committee. The management contract would establish key performance indicators, and targets which reflect the Council's strategic aspirations, fit within the corporate performance framework and provide meaningful powers to ensure the Council's continuing investment in sport and culture provides value for money.
- 7.4 A trust would be guided day-to-day by a board of directors. This provides an opportunity to take advantage of a range of skills and experience from elected members and individuals in local communities, businesses and wider civic society who will make up the majority of the Board, and who would come together with the sole focus of enhancing sport and cultural opportunities for the benefit of Aberdeenshire.

- 7.5 The operational flexibility provided by the trust structure would enhance the ability to respond quickly to the needs and aspirations of users in each part of Aberdeenshire.
- 7.6 Alongside the enhanced trading opportunities, there is likely to be financial betterment beyond the £1.042m VAT and Non Domestic Rates Relief, through a trust's ability to access funding sources, such as grants, not always available to the Council. This additional betterment can be applied to enable service enhancement, or to reduce the cost to the Council of maintaining service delivery, although the scale of additional betterment through grants etc should not be over-estimated
- 7.7 The Office of the Scottish Charities Regulator (OSCR) has clear guidelines about board membership, structure and governance which ensures the skills and independence of board members are available to fulfil the duties to the charity. It should be noted that to obtain charitable status OSCR requires that the Board would include a majority of non-Elected Members. If Full Council makes a final decision to transfer services to the trust the Board will have a majority of non-councillor members, with skills relevant to the needs of the trust. The chair would not be a councillor, in order to satisfy the requirements of OSCR.
- 7.8 The report to Full Council will include fuller details of the work to be undertaken in order to prepare a Full Business Case.

8. Potential dis-benefits

- 8.1 The Trade Unions have been consistent in articulating their belief that there may be potential dis-benefits of any Council decision, and that this should be reflected in the planning process. Officers and Trade Union representatives within the project team and board are working together to ensure the interests of employees are considered at every stage, and that they are kept well informed of developments. The Project Board committed to using the experiences of the Trade Unions from their members in other authorities to inform any process, including a project team workshop to identify and, if possible, address dis-benefits. This would then be highlighted in the future report to Full Council.

9. Next Steps

- 9.1 Progressing to establish a charitable trust is a significant step. The OBC is a detailed and accurate analysis of the potential financial benefits based on the data provided by Council officers; it also provides a high level overview of practical considerations in establishing and managing a trust, if Full Council agrees to progress this. The financial analysis is backed by detailed calculations, based on considerable data provided by the Council, and Ernst & Young's experience. There are some elements however where final information is not possible at OBC stage. The OBC, for example, does not address the potential for there to be additional liabilities from a Charitable Trust becoming part of the North East Scotland Pension Fund. This may reduce the financial benefit identified in the OBC. To refine those details there is a requirement to progress to a Full Business Case (FBC).

- 9.2 If Full Council, agrees there is benefit in moving to the next stage of analysis (development of a FBC) further work will be undertaken on the detailed proposal and the consequent financial implications. Once completed, the FBC would return to Full Council for consideration. A decision to proceed with an FBC is not a decision to proceed with a trust, however members should be clear that there is considerable financial investment required in developing the FBC which is not recoverable. The investment has been forecast by Ernst & Young using the guidelines set out in HM Treasury Greenbook, and is calculated to be up to £325,000, including advice to the Council and staff capacity costs. On the figures in the OBC, if Full Council decided to proceed, the return on investment period is estimated to be within four months, based on OBC figures.
- 9.3 Some of the FBC development work which Full Council will be asked to consider will be highly visible, such as the incorporation of a company, and to many stakeholders, particularly staff, this may look like a final decision has been taken. Such actions would be necessary to expedite the business case process, and do not commit the Council to a specific course of action. These issues will be detailed further in the report to Full Council.
- 9.4 It is likely the FBC will be delivered after the summer 2017 recess. If Full Council decides at that stage to proceed with delivery of sport and culture through the trust there will be several months required to finally implement that decision, although much of the work undertaken in developing the FBC will be preparatory to this. It is anticipated that a trust could be in place and delivering services by 1st January 2018.
- 9.5 Effective staff communication and engagement is essential to ensure that the FBC development takes advantage of the wide knowledge and experience of staff, and that the Council's employees feel fully engaged with the process. It is recognised however that this can be an anxious time for employees and every effort will be made to ensure appropriate timely communication and support is provided at a local level. The Trade Unions have representatives on both the project team and the project board.
- 9.6 The Council's Communications team have developed a communication plan to support the project, which includes a range of formal and informal channels for engagement, dialogue and information. This would include councillors, staff, key partners in sport and culture and the healthy and diverse voluntary sector as well as the general public.
- 9.7 Activities of this nature are required to develop the FBC and represent a significant commitment, although, to be clear, they do not irrevocably commit the Council to any future course of action. The point of the FBC is to undertake the work identified in the OBC to finalise the business case. Elected members would be free to cease the process on consideration of the FBC. The development of the FBC is designed to ensure that the proposal delivers on the key benefits outlined at the start of the process – enhancing the quality of service and maintaining a strong strategic relationship with robust accountability in delivering services, in line with the priorities of elected members.

10 Equalities, Staffing and Financial Implications

- 10.1 An equality impact assessment is not required because this report is focussed on the potential commissioning of further research and work in developing a Full Business Case around a proposal. If agreed the development of the FBC will require an equality impact assessment, the results of which will be included in any future report to Full Council.
- 10.2 There are no staffing implications arising directly from this report, however as noted above, the work required to develop the FBC may in itself be sufficient to cause concern to staff and a communication plan is in place to address this.
- 10.3 There are no financial implications arising directly from this report, however the Outline Business Case identifies an investment of £325,000 required to undertake the development of an FBC and the Full Council report will address the financial implications as part of the proposal to develop the FBC.

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Report prepared by John Harding, Head of Lifelong Learning & Leisure
8 September 2016

Appendix One – summary of the project management approach.

A1.1 Council constructed a project management framework around this process, with all Council services represented on a Project Board, chaired by the Director of Education & Children's Services, and comprising Heads of Service from across the Council, an Area Manager and the Trade Unions.

A1.2 The Board directs a Project Team, chaired by the Head of Lifelong Learning & Leisure and comprising senior officers from across the council and the trade unions.

A1.3 The typical project management approach sequences decision making in three stages:

- Stage one
Strategic Outline Case – aims to identify a strategic need for a project (examining alternative service models) and agreement to explore further. This stage was concluded with ELL Committee's consideration of a report in March 2016
- Stage Two
Outline Business Case (OBC) - High level analysis of options, and exploration of a preferred option. The OBC allows the organisation to decide whether there is sufficient net benefit in an option to invest resources in investigating further; or, if not, to cease the project. This is the current stage.
- Stage Three
Full Business Case (FBC) – The development of a full case reflects an organisation's decision to explore in detail, test and refine the benefits of a preferred option outlined in the OBC. The FBC allows an organisation to reach a final decision about whether - and how – to implement a proposal

A1.4 In developing the Outline Business Case Ernst & Young followed guidelines set out in the HM Treasury's Green Book, for supporting complex decision making with a structured and disciplined framework, called the Five Case Model:

- (i) the Strategic Case; which identifies the fit of the proposed changes with the Council's priorities
- (ii) the Economic Case; which appraises different options on non-financial grounds
- (iii) the Financial Case, which analyses the monetary impact of a proposal
- (iv) the Commercial Case, which explores the viability of a specific proposal
- (v) the Management Case explores the achievability of a proposal

Ernst & Young analysed each 'case' in developing the Outline Business Case.

Appendix Two – Summary of the Options Analysis & Five Case Review within the Outline Business Case

A2.1 The Strategic Case identifies the fit of proposed changes with the Council's priorities. The challenge of securing continuous improvement in an increasingly difficult financial context is the primary driver for undertaking a review. Both desk research and Ernst & Young's research identified that 30 out of 32 Local Authorities use a subsidiary of some kind to deliver similar services. The benefits available to be considered as part of the review were agreed by the working group:

- Improved service quality
- Sustaining services
- Increased access to other funding streams
- Ability to react quickly to user needs and market forces
- Single focussed body
- Savings through Non Domestic Rates Relief (NDR) and VAT
- Maximise income growth
- Improved financial performance
- Less bureaucracy
- Operational independence and ability to diversify
- Greater speed of decision making

A2.2 The Economic Case is an options analysis based on non-financial grounds. This was progressed by a workshop attended by 22 senior representatives from across the Council. It considered five broad options, which had been suggested by the working group and confirmed by the workshop:

- 1 Retain the Status Quo
- 2 "Enhanced" Status Quo
- 3 Outsourcing to private sector
- 4 Establish a Private/Public Partnership
- 5 Management by a wholly-owned charitable trust

A2.3 During the course of the workshop option two was clarified to represent a significant structural change, exemplified by a Direct Service Organisation (DSO). Options 1, 2 and 5 were considered to be within the definition of the Scrutiny & Audit Committee's recommendations.

A2.4 The qualitative assessment used the following criteria and weighting (It should be noted that these weightings were with reference to this process for comparing one model with another, and don't represent their relative importance in service delivery):

- 25% Quality of service
- 20% Strategic accountability and governance
- 15% Operational efficiency
- 15% Commerciality
- 10% Community engagement
- 10% Capacity to enhance resources and investment
- 5% Management of risk

A2.5 The result of this assessment was:

Management by wholly-owned charitable subsidiary	80.6
“Enhanced” Status Quo (DSO)	79.6
Retain the Status Quo	66.4
Establish a Private/Public Partnership	58.0
Outsourcing to private sector	54.6

A2.6 The Financial Case analyses the monetary impact of options. Ernst & Young analysed the financial implications for Option 5 (Charitable Trust) and Option 2 (Enhanced Status Quo/DSO) given the closeness of their scoring in the Economic Case. Their analysis recognises that there are financial costs to running either a DSO or a Trust, as well as financial benefits. The net financial impact to the Council is assessed as:

Option 2 – Enhanced Status Quo (DSO)	Net cost of £300k pa
Option 5 – Wholly owned trust	Net benefit of £1.042m

A2.7 The primary source of financial benefit is from Non-Domestic Rates Relief available to a charitable body managing services and the buildings from which they are delivered. This relief does not reduce the Council’s rates income.

A2.8 Hypothetically this relief can be withdrawn, however there has been no suggestion that this even being considered. If at some future time, the Scottish government considered changing the NDR framework, it would have a significant impact affecting almost all of Scotland’s local authorities. It is not a change which will be considered lightly.

A2.9 The Community Empowerment Act allows councils to offer NDR relief to community organisations. Unlike the national NDR programme councils must fund this relief themselves so there is no net benefit to Aberdeenshire. Indeed, since the Council must extend the same benefits other organisation in similar circumstances, there is a potential net loss to the Council. Rates Relief under the act therefore has not been a factor in the analysis of financial benefits.



Appendix Three – In-scope services

The Project Board considered this analysis which shows the differentiation between the three component services of Culture Sport & CLD.

Criteria	Cultural Services	Sport & Physical Activity	Community Learning & Development
Significant financial benefit – Non-Domestic Rates Relief / VAT	Yes	Yes	No
Statutory basis	No	No	Yes
Inspection burden	No	No	Yes
Universal service (as opposed to targeted)	Yes	Yes	No
Property management function	Yes	Yes	No
Experience from other LAs – significant presence in trusts	Yes	Yes	No
Good fit from the options analysis workshop	Yes	Yes	No



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Executive Summary

Aberdeenshire Council appointed EY to assist on the development of an Outline Business Case (OBC), including an options appraisal, to explore the different options available to the Council for future delivery of its Culture, Sport and Community, Learning & Development (CSC) services. This OBC follows HM Treasury's Green Book Guidance which recommends using a five case model.

This OBC captures the reasoning for initiating the project and its strategic context, identifies a preferred option and sets out how the project would be delivered should the Council proceed with the preferred option. It also provides detailed analysis of the options appraisal process. Lastly, it provides transparent analysis on the preferred option in addition to the other options that also scored favourably.

The Outline Business Case allows the Council to make an informed decision on whether to approve the development of detailed plans. If approval to proceed is granted, the Full Business Case will provide the opportunity for final approval and implementation to be carried out.

The outline business case is structured as follows:

- ▶ Strategic case – To confirm the strategic fit and business needs within the context of Aberdeenshire Council.
- ▶ Economic case – To demonstrate the options that were identified, the appraisal process undertaken and to identify the preferred option.
- ▶ Commercial case – To set out the commercial implications in areas of corporate structure, governance, contractual arrangements and staffing considerations.
- ▶ Financial case – To set out affordability implications of the preferred option.
- ▶ Management case – To describe the approach to implementation of the preferred option, demonstrating the project is achievable and can be delivered successfully.

Where appropriate, further detail on specific areas is contained in the appendices.

Strategic Case for Change

The Council has recognised the need to review the model of service provision for CSC services. Providing continuous improvement in a competitive market is challenging, especially in light of widespread budgetary pressures that restrict the Council's ability to deliver quality services with a balanced budget. The Council is also aware that 30 of the 32 of the other local authorities in Scotland have already performed this review and had subsequently adopted alternate models for delivering these services.

There are a number of perceived advantages of alternative models, including:

- ▶ Improved service quality
- ▶ Sustainability of service provision

- ▶ Increased access to other funding streams
- ▶ Ability to react quickly to user needs
- ▶ Single focused body
- ▶ VAT and National Non-Domestic Rates (NDR) savings
- ▶ Maximise Income Growth
- ▶ Improved financial performance
- ▶ Independence and ability to diversify

- ▶ Less bureaucracy
- ▶ Greater speed of decision-making.

The main motivation for adopting an alternative delivery model was the ability to take advantage of the operational and commercial efficiencies being offered. A new model would also allow these services to be delivered in a more flexible manner that will drive operational efficiencies. Additionally, specific options allow the Council to benefit from significant financial savings in the form of NDR and VAT savings.

In May 2015, Aberdeenshire’s Scrutiny and Audit Committee produced a report that made recommendations for any service considering alternative delivery models. Importantly, it recommended that before pursuing an alternative delivery model, all possible avenues should be explored for that service including other internal delivery methods. It is for this reason that this Outline Business Case will review the options available to the CSC services and provide a recommendation on the preferred option, based on an assessment of the qualitative and quantitative benefits.

Economic Case

To undertake a review of alternative delivery model, EY facilitated an options appraisal workshop with Council representatives. This process involved the following:

- ▶ Identify a long list of delivery options
- ▶ Select a shortlist of options to be scored in the workshop
- ▶ Develop appraisal criteria based on Council objectives
- ▶ Convene workshop
- ▶ Agree criteria weightings
- ▶ Undertake scoring process and identify the preferred option

The Council selected five options that were shortlisted for the workshop, namely:

Table 1: Delivery options

Option	Description
Status quo	The existing arrangements would remain. The Council would continue to provide the services as part of its current remit, with future budgetary savings being made.
Enhanced status quo/DSO	Enhanced delivery within the current legal structure (status quo plus service improvement, including a direct service organisation within the council).
Outsource to a private sector operator	The services would be outsourced to a private sector operator. This would be in the form of a management contract for the services and the Council would pay a set charge per month to the operator. How these services are delivered would be set by the terms and conditions of the negotiated contract.
Establish a Private Public Partnership	The services and the buildings would be outsourced to a new special purpose vehicle (SPV). The council would pay the SPV a set charge per annum which could include a level of maintenance required on the

properties.

Transfer to a new, wholly owned charitable subsidiary

The council would set up a separate not-for-profit Charitable Trust to run the services. This would allow a focus on how these services are best delivered moving forward whilst still under the Council's group structure.

Source: Aberdeenshire Council

The table below sets out the score for each option against criteria that reflected the Council's objectives for the Project. The appraisal criteria and their respective weightings were agreed by the workshop group on the 12 August 2016.

Table 2: Qualitative assessment summary

Criteria	Option 1:	Option 2:	Option 3:	Option 4:	Option 5:
	Status quo	Enhanced status quo/DSO	Outsource to a private sector operator	Establish a PPP	Creation of a wholly owned Charitable Trust
Quality (25%)	66.6	86.6	46.6	46.6	86.6
Operational Efficiencies (15%)	53.4	66.6	66.6	66.6	80.0
Commerciality (15%)	40.0	86.6	40.0	46.6	80.0
Community (10%)	80.0	100.0	66.6	393.0	46.6
Accountability and Governance (20%)	100.0	60.0		53.4	76.6
Resources and Investment (10%)	46.6	66.6	533.0	53.4	80.0
Risk Management (5%)	60.0			73.4	83.4
Total (out of 700)	446.6			420.0	560.0
Weighted Total (out of 100)	66.4	79.6		54.6	58.0
Ranking	3	2		5	4
					1

Source: Aberdeenshire Council and EY Analysis

Based on the qualitative assessment the preferred option five is the creation of a wholly owned Charitable Trust ("Trust"). This scored 80.6 marks out of 100. This was closely followed by option two, the enhanced status quo/DSO with a score of 79.6 out of 100. Options three and four, outsourcing to a private sector operator and the establishment of a PPP, came fifth and fourth respectively.

Other key points to note in the appraisal process were:

- ▶ The Trust ranked first against operational efficiencies, resources and investments and risk management, while it also had the joint highest service quality score (alongside the enhanced status quo/DSO).
- ▶ The enhanced status quo, scored well on service quality, community engagement and accountability, governance and strategic alignment.
- ▶ Option three, outsource to a private sector operator, scored highest on commerciality.

Commercial Case

For the corporate structure, three options were identified with the ability to deliver charitable status:

1. Company limited by guarantee

2. Scottish Charity Incorporated Organisation
3. Industrial and Provident Society

The recommended option is, similar to many other local authorities, for a company limited by guarantee. The structure offers the protection and familiarity of the Companies Act, supported by clear and established legal precedents over the rights and obligations placed on the members of the Board.

It is proposed that this company would have a Board comprising of elected members, and a majority of independent members. The Scottish charity regulator, OSCR, have specific guidelines on the type of individuals who should compose the board. The key requirements from this guidance are: the majority of the board members should be independent of the Council; and, governance arrangements and board structure must allow the board members to fulfil their duties to the charity. There is an option for additional Trade Union representation and for Council Officers to attend in an advisory capacity.

The Board member roles will be clearly defined in the Articles of Association and recruitment of the Board will be designed to ensure an optimal mix of skills and experience. A formal strategic risk assessment and risk mitigation strategy will be regularly undertaken by the Board and its Chief Officer.

The main commercial arrangements between the Council and the Charitable Trust would cover the following areas:

- ▶ Lease Agreements – ownership of the building assets will be retained by the Council and will be leased or licenced to the Charitable Trust
- ▶ Service Level Agreements – the Charitable Trust will require a range of support and administration services provided by the Council (over time the Trust may decide to receive this support from other providers)
- ▶ Operating Agreement – sets out the terms of the management agreement between the Charitable Trust and the Council and includes the range of KPIs and the management fee
- ▶ Management Fee Agreement – to cover the payment by the Council to the Charitable Trust for delivering services, to place outcome and performance obligations on the Charitable Trust.

The business case recognises that the appropriate management of staffing issues will be critical to the successful establishment and operation of the Charitable Trust. TUPE legislation will apply to staff.

Financial Case

In the financial case we have established the base financial position of the future operating model. The forecast savings and forecast costs for this option have been compared against the status quo and enhanced status quo/DSO, as shown below:

Table 3 - Summary of savings and costs

	Status quo	Enhanced status quo/DSO	Charitable Trust
Recurring additional costs	-	(300)	(185)
NDR and VAT savings	-	-	1,227
Net saving/(cost)	-	(300)	1,042

Source: EY Analysis

The financial projections reflect:

- ▶ The 2015/16 financial outturn of a £15.645m net expenditure for the CSC services.

- ▶ The first year financial position of the Charitable Trust has been established after making adjustments for transition costs of £0.325m and recurring costs of £0.185m. The transition costs are expected to have a likely payback period of three months.
- ▶ The Charitable Trust would be expected to make significant savings in respect of NDR and VAT of between £1.227m and £1.270m. For the purposes of this analysis we have applied a prudent assumption of £1.227m saving.
- ▶ The enhanced status quo/DSO would not benefit from any additional NDR or VAT savings. We would expect there to be additional transaction costs of £0.150m and recurring costs of £0.300m. This would result in a first year net expenditure of £16.095m.

Management Case

In order to develop plans to implement the Charitable Trust model, a project plan should be prepared. This sets out a challenging set of tasks that could be completed prior to a go live date. These include:

- ▶ Implementing and carrying out an effective communication process, both internally to Council employees and externally to end users, can take between four to six months to undertake. This will include Trade Union consultation.
- ▶ Developing legal documentation including lease agreements, management agreements and transfer and service agreements can take up to three months to complete.
- ▶ OSCR application and approval. Similar Charitable Trusts have taken up to six months for the OSCR application to be approved.
- ▶ Admissions to the North East Scotland Pension Fund. Given the structured process that the Council and Charitable Trust will need to follow before any firm commitment can be given. This process can take between three and six months.
- ▶ Preparation of the Full Business Case.
- ▶ Final review and approval by the Council's elected members of the fully developed proposals.

However, there are a number of statutory and regulatory issues that are expected to take longer to implement. These include the completion of:

- ▶ The TUPE transfer process
- ▶ The OSCR application process
- ▶ HMRC engagement

Based on our experience working with other local authorities, implementation can take up to 12 months from the date of Council approval.

The project will continue to be supported by strong governance, with the Project Team reporting to a Project Board, with decisions on further approval to be made by the full Council. Effective risk management will continue through monitoring and updating the risk register. A suitable contingency plan to continue with the current service model is available should unforeseen issues delay the implementation of the Charitable Trust.

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1. Introduction

Aberdeenshire Council appointed EY to assist on the development of an Outline Business Case (OBC), including an options appraisal, to explore the different options available to the Council for future delivery of its Culture, Sport and Community Learning & Development (CSC) services.

This OBC follows HM Treasury’s Green Book Guidance which recommends using a five case model. The purpose of this document is to capture the strategic context for initiating the project and to describe the process for establishing a preferred option for the CSC services in the future.

By following best practice, this OBC focusses on the qualitative options appraisal process and the identification of likely financial impact of these options. Through this process, we identify the top two scoring options, however, all options are available for the Council to explore further.

The recommendations contained within this OBC will be used by Aberdeenshire Council to inform their decision on possible future delivery models for the CSC services. This will be the first stage in this approval process. The Council will also have the opportunity to review the decision after the preparation of the Full Business Case.

1.1 Approach to applying the five case model

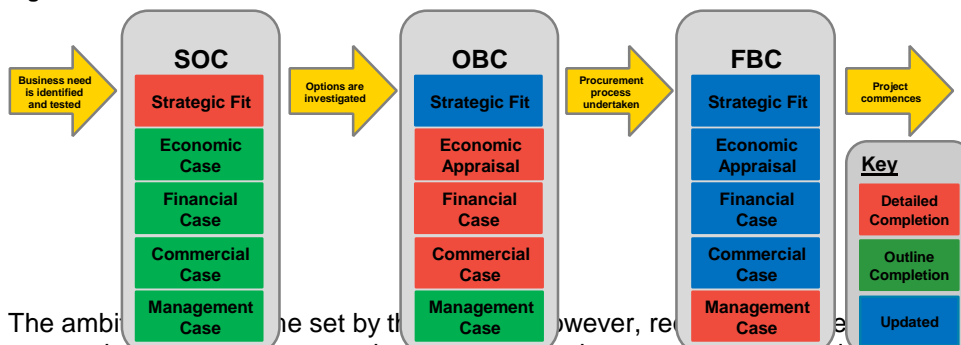
The standard guidance requires business cases to be developed in 3 stages:

- ▶ Strategic outline case – explore initial options
- ▶ Outline business case – evaluate list of options

- ▶ Full business case – develop the preferred option

This is illustrated in the following diagram:

Figure 1 - Standard five case model

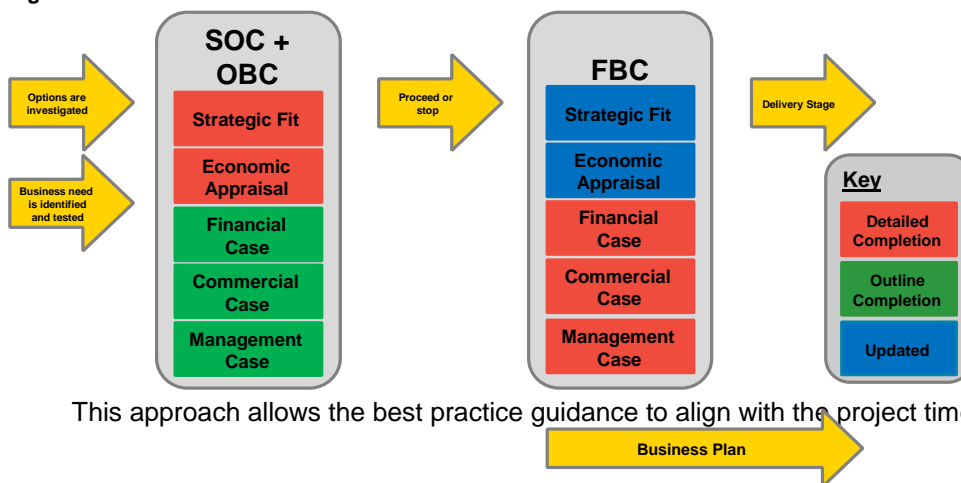


The ambition is to have the set by the... however, re... approach. This approach combines the strategic and outline business cases into this single document as illustrated below.

Source: EY

Introduction

Figure 2 – Revised five case model



This approach allows the best practice guidance to align with the project timetable.

1.2 Structure of this report

The outline business case is structured as follows:

- ▶ Strategic case – To confirm the strategic fit and business needs within the context of Aberdeenshire Council.
- ▶ Economic case – To demonstrate the options that were identified, the appraisal process undertaken and to identify the preferred option.
- ▶ Commercial case – To set out the commercial implications in areas of corporate structure, governance, contractual arrangements and staffing considerations.
- ▶ Financial case – To set out affordability implications of the preferred option.
- ▶ Management case – To describe the approach to implementation of the preferred option, demonstrating the project is achievable and can be delivered successfully.

Where appropriate, further detail on specific areas is contained in the appendices.

2. Strategic Case

2.1 Introduction

This section explores the strategic context driving the need for Aberdeenshire Council to review the model for the provision of its Culture, Sport and CLD (CSC) services. The section provides summary background information on the Council, CSC Services and how the strategic case for change has been established.

2.2 Background

Aberdeenshire Council is the fourth largest geographical area in Scotland and with approximately 250,000 people, it the country's sixth largest by population. Although Aberdeenshire Council is situated adjacent to the city of Aberdeen, the population is spread amongst a wide geographical area with towns including Peterhead, Fraserburgh, Inverurie, Westhill, Stonehaven and Ellon. The population of these towns range from 10,000 to 18,000. As a result, a widespread population with no 'central' population base presents a unique set of challenges for the Council in the manner in which it delivers its services.

Key Area	Result
Population	<ul style="list-style-type: none"> ▶ Significant population growth over recent years (11.5% between 2003 and 2013), however, the impact of recent oil price movements may impact this trend ▶ High proportion of families with young children ▶ Low proportion of 18-35 age bracket compared to the national average
General Health	<ul style="list-style-type: none"> ▶ Life expectancy is higher than the Scottish average ▶ Aberdeenshire has the second highest level of participation in sport across Scotland
Labour	<ul style="list-style-type: none"> ▶ 1.3% unemployment – significantly lower than the Scottish average ▶ Top industries: oil and gas, the service sector, farming, fishing and forestry ▶ Aberdeenshire has low levels of deprivation, representing 0.4% of the top 20 most deprived areas in Scotland

Source: Aberdeenshire Council 2013 – 2017 Council Plan and www.aberdeenshire.gov.uk

This illustrates the underlying Council demographics and helps shape the strategic planning for the delivery of the CSC services, by understanding the end users and their needs.

The Council supports the local population by providing a range of statutory and non-statutory services. This cost of service provision was £617m in the year ended March 2016. The table below shows the split of expenditure across the main service offerings.

Table 4 – Annual cost of services

	2014/15 £'000	2015/16 £'000
Education Services	286,206	301,227
Housing Services	7,273	6,839
HRA	25,657	14,666
Cultural and Related Services	25,451	26,718
Environmental Services	33,434	35,379
Roads and Transport Services	40,355	42,265
Planning and Development Services	21,677	13,658
Social Work	138,236	151,956
Central Services	11,154	11,264
Corporate and Democratic Core	10,857	12,582
Non Distributed Core	533	351

Total Cost of Services	600,833	616,905
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Source: Aberdeenshire Council – Annual Accounts for the year ended 31 March 2015 and 31 March 2016 (Unaudited)

The cost of these services has increased by 3% over the year, putting further pressure on Council budgets. This trend is being replicated across Scottish Councils and has been further exacerbated when the Scottish Government announced that there would be a further 3.5% cut to local government block grant for 2016/17. This is one of many reasons why the future service delivery of a number of services are being explored.

2.3 Culture, Sport and CLD services

The services being reviewed are currently split into three main areas, namely Culture, Sport and Community Learning Development (CLD). For the purpose of this options appraisal, all three groups have been initially included, however, consideration will be given to in scope services after the preferred delivery vehicle has been confirmed.

These services represent a significant proportion of the Council's entire workforce. Approximately 1,700 staff are aligned to the CSC services which represents 10% of the Council's workforce.

The Council's briefing note prepared in May 2016 highlighted that the following physical assets are in scope. Some of these assets are on shared premises.

2.3.1 Culture

The following assets fall under the scope for the culture services:

- ▶ 35 libraries – including a number of libraries that form part other education facilities
- ▶ Libraries headquarters
- ▶ 11 Museums – eight of which are managed by partner organisations
- ▶ Museum headquarters
- ▶ Macduff Aquarium

2.3.2 Sport and physical activity

The assets contained in the sport services are as follows:

- ▶ 18 leisure facilities (including indoor sports halls and swimming pools)
- ▶ Two ski centres
- ▶ Community centres. See appendix A for a full list of assets.

2.3.3 CLD

There are no physical assets managed by the CLD service.

2.4 Financial position of the assets

In the financial year 2015/16, the Culture, Sport and CLD services recorded net expenditure of £15.6m, summarised below:

Table 5: Annual Culture, Sport and CLD financial position 2015/16

	Culture £'000	Sport £'000	CLD £'000	Total £'000
Income	(407)	(10,060)	(112)	(10,579)
Expenditure	6,399	16,033	3,792	26,224
Total surplus / (net expenditure)	5,992	5,973	3,680	15,645

Source: Aberdeenshire Council

The Culture, Sport and CLD services currently operate at net expenditure of £5.99m, £5.97m and £3.68m respectively, bringing the total net expenditure to £15.65m. This position does not include other CSC budgets (for example, central support costs) that should be considered going forward.

The Council, like a number of local authorities, wants to review alternative methods for providing these services to the local community. Exploring how these services are managed creates opportunities to reduce the future net expenditure of these services.

2.5 Strategic case for change

The Council provide their CSC services in a competitive market and balancing service quality with continuous improvement is always challenging. This is exacerbated by widespread budgetary pressures that all local authorities currently face and are expected to continue to face in the future. This is particularly relevant when the impact of macro-economic factors continue to pressurise central and local governments' finances.

In 2009, the Council began an exercise that explored alternative delivery models for the Culture, Sport and CLD services. This programme was halted in 2011 when it became apparent that the models that were being reviewed were not satisfactory alternatives to the service delivery at the time. Additionally, the level of financial pressure facing the Council was not as demanding as recent years.

In 2012, the review of alternative delivery methods was resumed as part of the wider transformation change agenda. Aberdeenshire Council was aware that a significant proportion of the other local authorities in Scotland had already performed this review and had subsequently adopted alternative models for delivering these services. Approximately 25 of the 32 local authorities have adopted an alternative delivery model, namely a Charitable Trust.

The main motivation for adopting an alternative delivery model was the operational and commercial efficiencies being offered. A new model would also allow these services to be delivered in a more flexible manner that will drive operational efficiencies. Additionally, specific options allow the Council to benefit from significant financial savings in the form of NDR and VAT savings. These options were reviewed and discussed internally within the Council. In 2016, members of the Education, Learning and Leisure Committee agreed that a formal review of these options should take place.

In May 2015, Aberdeenshire's Scrutiny and Audit Committee produced a report that made recommendations for any service considering alternative delivery models. Importantly, it recommended that before pursuing an alternative delivery model, all possible avenues should be explored for that service including other internal delivery methods. It is for this reason that this Outline Business Case will review the options available to the CSC services and provide a recommendation on the preferred option, based on an assessment of the qualitative and quantitative benefits.

2.6 Summary

The Council has recognised the need to review the model of service provision for CSC services. Providing continuous improvement in a competitive market is challenging, especially in light of widespread budgetary pressures that restrict the Council's ability to deliver quality services with a balance budget.

There are a number of perceived advantages of alternative models, including:

- ▶ Improved service quality
- ▶ Sustainability of service provision
- ▶ Increased access to other funding streams
- ▶ Ability to react quickly to user needs and market forces
- ▶ Single focused body
- ▶ VAT and National Non-Domestic Rates ("NDR") savings
- ▶ Maximise income growth
- ▶ Improved financial performance

- ▶ Independence and ability to diversify

- ▶ Less bureaucracy
- ▶ Greater speed of decision-making.

Reviewing the models of service provision allows these perceived advantages to be explored across a range of options and against appraisal criteria that reflect the Council's overall aims and objectives. This options appraisal forms the basis of the Economic Case, set out in the following section.

3. Economic Case

3.1 Introduction

The Strategic Case has demonstrated that there is an appetite to review the model for the delivery of Sport, Culture and CLD services and explore alternative delivery models for the future.

The purpose of the Economic Case is to highlight the range of options being explored by the Council and the methods undertaken to select a preferred option for future delivery of CSC services. This assessment will be informed by a review of the qualitative fit of these options compared against the Council's transformation objectives. The Economic Case does not elaborate on the financial consequences of these options, this is carried out in the Financial Case (Section 5).

3.2 Approach

To undertake a review of alternative delivery model, EY facilitated an options appraisal workshop with Council representatives. This process involved the following:

- ▶ Identifying a long list of delivery options for the options
- ▶ Select a shortlist of options to be scored in the workshop
- ▶ Develop appraisal criteria based on Council objectives
- ▶ Convene workshop
- ▶ Agree criteria weightings
- ▶ Undertake scoring process and identify the preferred option

The following sections of the Economic Case describe how this process was undertaken.

3.3 Delivery models

Aberdeenshire Council have identified a short list of five options for appraisal. The table below provides a summary of the description of each option:

Table 6: Delivery options

Option	Description
Status quo	The existing arrangements would remain the same. The Council would continue to provide the services as part of its current remit, with future budgetary savings being made.
Enhanced status quo/DSO	Enhanced delivery within the current legal structure (status quo plus service improvement, including a direct service organisation within the council).
Outsource to a private sector operator	The services would be outsourced to a private sector operator. This would be in the form of a management contract for the services and the Council would pay a set charge per month to the operator. How these services are delivered would be set by the terms and conditions of the negotiated contract.
Establish a Private Public Partnership	The services and the buildings would be outsourced to a new special purpose vehicle (SPV). The council would pay the SPV a set charge per annum which could include a level of maintenance required on the properties.
Transfer to a new wholly owned charitable subsidiary	The council would set up a separate not-for-profit Charitable Trust to run the services. This would allow a focus on how these are best delivered moving forward whilst still under the Council's group structure.

Source: Aberdeenshire Council

The options were based on an internal discussion paper prepared by officers in May 2016. This paper also included a further option – the creation of a separate arms-length organisation – which was discounted from the short list. It was agreed that this option did not present a clear alternative from the

wholly owned Charitable Trust. This option would only be a viable alternative if it is legal and charitable status could be defined. The final shortlist was agreed with the workshop group on the 11 August 2016.

3.4 Qualitative evaluation criteria

The preferred option for delivery must be aligned to the Council's objectives. These objectives underpinned the selection of each of the workshop criteria and are:

1. Develop talent
2. Retention of strategic direction
3. Improve service delivery
4. Improve flexibility
5. Financial benefit to the Council

In addition, to these much have criteria, there are also a number of other objectives associated with the Council's "localisation" agenda, which include:

6. Engage communities in their localities
7. Support the community empowerment agenda
8. Develop a portfolio to meet the needs of local communities
9. Asset Review Programme

These objectives were used as the basis to form the qualitative criteria to assess each delivery option. The following objectives were originally identified by the project team in their briefing paper and then confirmed with the workshop group on the 11 August 2016.

Table 7: Qualitative assessment criteria

Title	Objectives
Quality	The option will deliver the set quality standard agreed with stakeholders and has the ability to adapt and improve over time.
Operational Efficiencies	The option presents a clear opportunity for driving operational efficiencies through expertise of management and economies of scale.
Commerciality	The option provides enhanced long-term commercial viability for CSC services, based on skill sets, experience and sectorial understanding.
Community engagement and alignment with locality planning	The option provides opportunities to engage with and benefit the wider community and contribute to the LOIP/SOA. It will also align with the Council's area based planning guidance and the Community Empowerment Act.
Accountability, governance and strategic alignment	The option provides the council and community with a degree of transparency, flexibility and comfort over the ongoing delivery of the services and the council's interest in the services.
Resources and investment	The option provides for the effective utilisation of resources and investment to allow for the successful delivery of the services in sustainable manner. This includes staff and managerial resources working together to realise the governing organisations goals and objectives.
Risk management	The option provides opportunity to manage the relevant risks associated to service delivery.

Source: Aberdeenshire Council

These criteria were then used as part of the options appraisal workshop.

3.5 Delivery options assessment

3.5.1 Assessment criteria

Each of the five options were assessed against the criteria described above. To capture the importance of each option to the Council, these options were weighted as set out below.

Table 8: Criteria Weighting

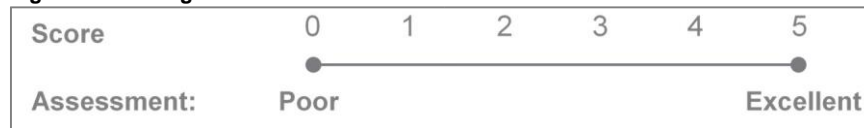
Option	Weighting (%)
Quality	25
Operational efficiencies	15
Commerciality	15
Community engagement and alignment with locality planning	10
Accountability, governance and strategic alignment	20
Resources and investment	10
Risk management	5
Total	100

Source: Aberdeenshire Council

The weighting was discussed and agreed with the workshop group, however, given the subjective nature of this exercise, it was agreed that sensitively analysis should be undertaken that considers on the impact on the adjusting the weightings and the impact this would have on the scores. These weightings apply for the purposes of this exercise.

3.5.2 Scoring range

The options were scored against the criteria using the following scale:

Figure 3 - Scoring criteria

Source: EY

The 0 – 5 scale was used to assist the workshop group in assigning objective scores to the options and to reduce the impact of “average” scores being assigned to every criteria. These were then translated into percentages (out of 100) to provide further transparency over the results.

3.5.3 Appraisal method

The workshop group was made up of senior officers present on the 12 August 2016. This was a cross service line group made up of representatives from the following areas:

- ▶ Lifelong Learning & Leisure
- ▶ Legal and Governance
- ▶ Human Resources and Organisational Development
- ▶ Finance
- ▶ Property and Facilities Management
- ▶ Corporate Communications
- ▶ Trade Unions
- ▶ Aberdeenshire Council Area Managers

In total there were 21 Senior Officers and Heads of Service who attended the workshop and participated in the scoring exercise. The workshop group was split into three groups, each with individuals from the main Council services and disciplines noted above.

The role of EY was to facilitate the discussion, record the main comments and calculate the aggregate score and ranking.

3.5.4 Delivery options evaluation summary

The table below summarises the assessment of the five options against the qualitative criteria. Scores were collated from each of the three groups with an average score being

taken for each option. This reduced the impact of any outlier scores skewing the final results. The final scores were:

Table 9: Qualitative assessment summary

Criteria	Option 1: Status quo a Private Trust	Option 2: Enhanced Status quo/DSO	Option 3: Outsource to a wholly owned private sector operator	Option 4: Establish a Charitable operator	Option 5: Creation of a Charitable operator
Quality	66.6	86.6	46.6	46.6	86.6
Operational Efficiencies	53.4	66.6	66.6	66.6	80.0
Commerciality	40.0	66.6	86.6	80.0	80.0
Community	80.0	86.6	40.0	46.6	73.4
Accountability and Governance	100.0	100.0	40.0	53.4	76.6
Resources and Investment	46.6	60.0	46.6	53.4	80.0
Risk Management	60.0	66.6	66.6	73.4	83.4
Total (out of 700)	446.6	533.0	393.0	420.0	560.0
Weighted Total (out of 100)	66.4	79.6	54.6	58.0	80.6
Ranking	3	2	5	4	1

Source: Aberdeenshire Council and EY Analysis

Based on the qualitative assessment the preferred option five is the creation of a wholly owned Charitable Trust ("Trust"). This scored 80.6 marks out of 100. This was closely followed by option two, the enhanced status quo/DSO with a score of 79.6 out of 100. Options three and four, outsourcing to a private sector operator and the establishment of a PPP, came fifth and fourth respectively.

Other key points to note in the appraisal process were:

- ▶ The Trust ranked first against operation efficiencies, resources and investments and risk management, while it also had the joint highest service quality score (alongside the enhanced status quo/DSO).
- ▶ The enhanced status quo/DSO, scored well on service quality, community engagement and accountability, governance and strategic alignment
 - ▶ Option 3, outsource to a private sector operator scored highest on commerciality.

A summary table capturing the key comments from the group discussion is shown below.

3.5.5 Options appraisal workshop commentary highlights

Criteria and Weighting	Option 1: Status quo	Option 2: Enhanced status quo/DSO	Option 3: Private sector operator	Option 4: Establish a PPP	Option 5 – Creation of a wholly owned Charitable Trust
a. Service Quality (25%)	<ul style="list-style-type: none"> ▶ The Council provides a satisfactory level of services to the public. 	<ul style="list-style-type: none"> ▶ There is optimism that a new structure would create the opportunity for enhanced service quality and the opportunity to implement change. 	<ul style="list-style-type: none"> ▶ There is a lack of clarity whether services would improve if outsourced. There may also be a lack of control service quality. It is unlikely that the private sector would consistently invest given their internal rate of return targets. 	<ul style="list-style-type: none"> ▶ This model has a mixed reputation. ▶ It would be subject to similar disadvantages as option 3. 	<ul style="list-style-type: none"> ▶ This option would provide the opportunity to improve the service offering and deliver long term change.
b. Operational Efficiencies (15%)	<ul style="list-style-type: none"> ▶ Any operation efficiencies rely on the current political appetite. Any change would be implemented over time and would be drip-fed. 	<ul style="list-style-type: none"> ▶ This option would also be hampered by bureaucracy but a new system may create opportunities for improvement. 	<ul style="list-style-type: none"> ▶ Private sector profit motives would add discipline to the process. Changes could be made quickly and easily. 	<ul style="list-style-type: none"> ▶ This option would also encounter similar benefits to option 3 with private sector involvement. 	<ul style="list-style-type: none"> ▶ There is room for significant improvements under this structure with a new commercial focus and delegated power. Any savings would be retained within the public sector.
c. Commerciality (15%)	<ul style="list-style-type: none"> ▶ There are significant structural restrictions that stops the development of talent available through other models within the sector. ▶ There is little room for improvement under the current model. 	<ul style="list-style-type: none"> ▶ A new delivery model may not have the same restrictions as the current model, but would still suffer from many of the same problems. 	<ul style="list-style-type: none"> ▶ A private sector operator would be commercial focussed and have the right experience and skill set. However, there is a concern that they might not deliver services in line with all Council objectives. 	<ul style="list-style-type: none"> ▶ This model would benefit from the skills and experience of the private sector but is a less flexible and free model to operate under. 	<ul style="list-style-type: none"> ▶ Although still under Council control, there is the opportunity to inject new experience and skills into the management of the Trust.

d. Community (10%)	▶The Council acts in the interest of the local community and tries to serve the public. However, there is recognition that this could always be improved.	▶The motives would remain the same as the status quo but with the added benefit of creating the opportunity for improvement.	▶There is little or no motivation for a private sector operator to act in the best interest of the general public. Control would be lost.	▶There is slightly more control under this option than option 3, but the final relationship would be complex and any private sector operator is unlikely	▶This option is perceived to be more effective than the private sector at delivery services that benefit the wider community, but do
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EY 12

Economic Case

Criteria and Weighting	Option 1: Status quo	Option 2: Enhanced status quo/DSO	Option 3: Private sector operator	Option 4: Establish a PPP	Option 5 – Creation of a wholly owned Charitable Trust
e. Accountability and Governance (20%)	▶Under the status quo, these services would always be run with transparency, flexibility and with the Council's interests at heart.	▶This would not change under the enhanced status quo/DSO.	▶A private sector operator would not be accountable to the Council out with its contractual obligations.	▶Given the public sector involvement, there is likely to be more control but it is difficult to predict how this would be realised.	▶The Council would retain strategic control of how a Trust is set up but its independent board would allow it to act more flexibly.
f. Resources and Investment (10%)	▶There are significant capital restraints on the Council that mean that investment is limited.	▶This option presents the opportunity to negotiate change and develop more favourable budgets, however, there would still be significant long term restraints on budgets.	▶There may be the ability to utilise additional resources and there is likely to be a wider pool of capital investment. ▶However, this is counteracted by the likely restraints of higher internal rate of return and the need to retain profits for owners/shareholders.	▶The exposure to a wider resource pool would exist, particularly for new facilities, however, this would be subject to private sector returns and would present an annual cost to the Council for financing these arrangements.	▶A charity would have access to a wider pool of funding, not available to the private sector or Council.

g. Risk Management (5%)

►Risks are able to be managed and externalised. The Council's size also means that it is able to manage risk more effectively.

►However, this is mitigated by the fact that the Council has a lower appetite for risk given its public accountability. There is a perception that it is difficult to align this with a successful commercial outlook.

►The risk appetite and risk management procedures are unlikely to change materially, but this option allows the Council to review its current position.

►The Council may be exposed to risks associate with service delivery as they would have limited control of the private sector operator.

►However, the private sector operator would likely face contractual penalties and lost profits if there are significant service interruptions.

►The Council would be exposed to risks that they would find difficult to manage, however, like option 3, the private sector is unlikely to have a significant risk appetite.

►The Council is likely to influence risk management procedures, through contractual arrangements, and their presence on the Trust's board.

►The Trust is also likely to adopt a higher level of risk appetite than the Council

Source: Aberdeenshire Council

3.5.6 Sensitivity analysis

The scoring exercise undertaken in Section 3.4.4 concludes that although the Trust scores highest, option two – the enhanced status quo/DSO – also scores very well. These scores are based on the group’s qualitative view of each option against the set criteria. However, they were also influenced by the relative weightings of each criteria. For this reason, we have undertaken additional sensitivity to analyse the impact of changing these weightings and conclude on the impact this would have on the final ranking.

The following scenarios have been explored

1. Scenario 1 – an increased emphasis on operational efficiencies and commerciality
2. Scenario 2 – an increased accountability, governance and strategic alignment
3. Scenario 3 – all criteria have equal weighting

Details of the process is described below.

Scenario 1 – an increased emphasis on operational efficiencies and commerciality

In this scenario, we have increased the operational efficiencies and commerciality weightings and reduced the accountability, governance and strategic alignment criteria. The alternative weightings are shown below:

Table 10 - Scenario 1 weightings

Option	Original Weighting (%)	Scenario 1 Weighting (%)	Variance (%)
Quality	25	25	-
Operational efficiencies	15	20	5%
Commerciality	15	20	5%
Community engagement and alignment with locality planning	10	10	-
Accountability, governance and strategic alignment	20	10	(10%)
Resources and investment	10	10	-
Risk management	5	5	-
Total	100	100	-

Source: EY Analysis

This reflects one alternative view of the relative importance of each criteria to reflect a scenario where more emphasis is put on an efficient, commercially viable operating model. This has the following impact on the scores of each option.

Table 11: Scenario 1 - Qualitative Assessment Summary

Criteria	Option 1: Status quo		Option 2: Enhanced	Option 3: Outsource to a	Option 4: Establish	Option 5: Creation of a
	status	Private sector	quo/DSO	operator	Charitable	Trust
Original score (out of 100)	66.4	79.6	54.6	58.0	80.6	
Scenario 1 score (out of 100)	61.0	76.4	58.4	60.0	80.8	
Ranking	3	2	5	4	1	

Source: Aberdeenshire Council and EY Analysis

Based on these weightings, the option with the highest score remains option five – the Trust – followed by option two, the enhanced status quo/DSO. Although the relative ranking of each option remains consistent, the gap between the two options widens from 1.0 to 4.4.

Scenario 2 – an increased accountability, governance and strategic alignment

In this scenario, we have increased the accountability, governance and strategic alignment and reduced service quality, to provide an alternate view on the largest weighted criteria. The new weightings are shown below:

Table 12 - Scenario 2 weightings

Option	Original Weighting (%)	Scenario 2 Weighting (%)	Variance (%)
Quality	25	20	(5%)
Operational efficiencies	15	15	-
Commerciality	15	15	-
Community engagement and alignment with locality planning	10	10	-
Accountability, governance and strategic alignment	20	25	5%
Resources and investment	10	10	-
Risk management	5	5	-
Total	100	100	-

Source: EY Analysis

This reflects a second alternate view of the relative importance of each criteria. In this scenario, accountability, governance and strategic alignment becomes the most important criteria. This has the following impact on the scores of each option.

Table 13: Scenario 2 - Qualitative Assessment Summary

Criteria	Option 1: Status quo	Option 2: Enhanced status quo/DSO	Option 3: Outsource to a Private sector operator	Option 4: Establish a PPP	Option 5: Creation of a wholly owned Charitable Trust
Original score (out of 100)	66.4	79.6	54.6	58.0	80.6
Scenario 2 score (out of 100)	68.0	80.4	54.4	58.4	80.0
Ranking	3	1	5	4	2

Source: Aberdeenshire Council and EY Analysis

Importantly, the highest scoring option is now option 2 – the enhanced status quo/DSO, with the Trust dropping to second place. The ranking of the other options remains consistent with the original weightings. The gap between the two leading options is 0.4.

Scenario 3 – all criteria have equal weighting

In this scenario, we have amended the weighting so that each of the criteria has equal weighting, as shown below:

Table 14 - Scenario 3 weightings

Option	Original Weighting (%)	Scenario 3 Weighting (%)	Variance (%)
Quality	25	14.3	(10.7)
Operational efficiencies	15	14.3	(0.7)
Commerciality	15	14.3	(0.7)

Community engagement and alignment with locality planning	10	14.3	4.3
Accountability, governance and strategic alignment	20	14.3	(5.7)
Resources and investment	10	14.3	4.3
Risk management	5	14.3	9.3
Total	100	100.0	-

Source: EY Analysis

The equal weightings have the following impact on the scores of each option.

Table 15: Scenario 3 - Qualitative Assessment Summary

Criteria	Option 1: Outsource to a quo/DSO	Option 2: Enhanced status operator	Option 3: Establish Creation of a status operator	Option 4: Private sector	Option 5: a PPP Charitable Trust
Status quo wholly owned					
Original score (out of 100)	66.4	79.6	54.6	58.0	80.6
Scenario 3 score (out of 100)	63.8	76.2	56.2	60.0	80.0
Ranking	3	2	5	4	1

Source: Aberdeenshire Council and EY Analysis

If each of the criteria were weighted equally, there would be no impact on the final ranking of options (when compared to the original scores). Option 5, the Trust, remains the highest scoring option with a score of 80.0, with the enhanced status quo/DSO coming second with a score of 76.2.

Summary of sensitivity analysis

The sensitivity analysis demonstrates that, with the exception of scenario 2, the preferred option continues to be the creation of a wholly owned Charitable Trust.

3.5.7 Other scoring considerations

During the options appraisal workshop, the workshop group highlighted a number of issues that should be taken into consideration when interpreting the results of the workshop, namely:

- ▶ The group indicated that their scores for Option 2 – enhanced status quo/DSO – were based on the expectation there would be significant underlying improvements to the current operating model (including an effective service delivery organisation). Additionally, there is a political appetite to make these changes a reality. If this could not be achieved, this option would score less favourably.
- ▶ Clarity is needed on the final group of services in scope for a potential transfer. The workshop was undertaken on the assumption that all of the Culture, Sport and CLD services would transfer. However, there are numerous implications of operating the services together in the future. Further consideration of the services – and assets within these services – should be undertaken to determine the best strategic fit for any new service delivery model.
- ▶ With reference to the Trust, consideration should also be given to the contractual arrangements with the Council. For example, further clarity was needed on any surplus-gain share mechanism between the Trust and the council and clarifying contractual arrangements for utilities and other services.

3.6 Charitable Trust

The scoring exercise identified the Charitable Trust as the highest scoring option and therefore the preferred option from this exercise. The following narrative broadens our definition of a Charitable Trust and how it may operate for Aberdeenshire Council.

A Charitable Trust is a not-for-profit organisation which can be set up by a local authority to manage a range of Council services. A Charitable Trust of this type is run as a separate charitable company from the local authority with a governance board which can be made up of elected members, independent trustees, employees, community representatives and sometimes, commercial partners.

The Charitable Trust also benefits from significant NDR and VAT savings, not available to non-charitable organisations.

In Scotland, 30 of the 32 local authorities have developed Charitable Trusts for the management of their leisure and/or culture services with the size, scale and detailed operation varying depending on each council's circumstances.

As the Strategic Case identified, the majority of Culture, Sport and CLD services will require subsidy to a greater or lesser degree, so it is normal for local authorities to fund the net expenditure gap by way of a management charge which represents the cost of the Charitable Trust providing services on behalf of the Council.

Contrary to public opinion, Charitable Trust status is not a form of privatisation. The Council retains control and ownership of the assets and, being the main funder, has continuing major influence over policy.

From an operational perspective, the Charitable Trust would deliver the services through the existing staff base who would transfer from the Council to the Trust under transfer on the basis of TUPE from the Council to the Charitable Trust. The structural changes associated with the development of a Charitable Trust have a number of potential advantages to the Council.

3.7 Enhanced status quo/DSO

Although the Trust was the highest scoring option, it is clear that the enhanced status quo/DSO also score favourably. For that reason, we have also summarised how this option may operate in practice.

These services could be delivered through a Direct Service Organisation, responsible for delivering these services under the wider Council umbrella. Responsibility for delivering these services would transfer to a new business unit within the Council. This would create opportunities to redefine the management and support services for these services, renegotiate budgets and create operational efficiencies. However, this option would also still be constrained by the Council's political framework and would be subject to the wider aims and objectives of the Council.

Importantly, this option would not benefit from any NDR or VAT savings (other than any exemptions the Council currently benefits from).

As we have noted in section 3.5.7, the scores for the enhanced status quo/DSO is based on the expectation that a full DSO would be created. If this was the case, users would experience significant underlying improvements to the current operating model. The scores for this option mirror this expectation. If this was not the case, the scores may have been lower.

3.8 Summary - the preferred option

The options appraisal has concluded that the creation of a wholly owned Charitable Trust is the preferred option. This was based on the results of qualitative assessment agreed with representatives of Project Board and Project Team. This qualitative assessment will be supported by our assessment of the likely NDR and VAT savings offered by the Charitable Trust. This is presented within the financial case.

The key advantages of implementing a Trust – as opposed to the other options - are noted as:

- ▶ The organisation having objectives which can be aligned to the Council
- ▶ The organisation has a stronger ability to adapt to services requirements and customer feedback through the focus of the organisation

- ▶ The Council maintains significant visibility and governance over the organisation
- ▶ The organisation has the ability to attract the correct skill sets - at a staff and board level
 - to improve services going forward and potentially other sources of funding
- ▶ There is a strong net benefit from the setup of the Charitable Trust, which could be reinvested into the services and/or off-setting the management charge paid by the Council.

4. Commercial Case

4.1 Introduction

The Economic Case has identified the preferred option as the Charitable Trust operating mode. In this case, a number of different considerations regarding the future commercial and operating structure of the Charitable Trust will be developed.

The purpose of this section is to:

- ▶ Develop analysis regarding important commercial and operating considerations for the Charitable Trust.

The assessment will be informed by:

- ▶ A discussion regarding the Charitable Trust structure, governance and commercial arrangements
- ▶ A description of the issues related to the provision for support services and repairs and maintenance arrangements
- ▶ Regulatory and staffing arrangements

4.2 Charitable trust structure

4.2.1 Options

The key issues to consider on formation of the Charitable Trust are:

- ▶ The type of charitable organisation to set up
- ▶ The type of corporate structure to choose
- ▶ Registration and ongoing regulation formalities of the charity.

There are a number of different options typically considered for Charitable Trusts, for example:

1. Company limited by guarantee
2. Scottish Charity Incorporated Organisation
3. Industrial and Provident Society

These are examined below.

4.2.2 Option 1: Company limited by guarantee

A company limited by guarantee is the most common structure usually employed when creating a new charity. The key features of this structure include:

- ▶ It is incorporated under the Companies Act 2006 without issuing shares but instead the member guarantees a sum of money in the event of insolvency (typically £1)
- ▶ It gives the company, and its members, limited liability in respect of the debts and obligations of the company
- ▶ The Directors have duties and responsibilities under the Companies Acts and additional duties as trustees once the company is a registered charity
- ▶ It is regulated by both the Companies Act and the Office of Scottish Charity Regulator (OSCR).

After incorporation, an application to OSCR will be made to obtain charitable status. Once the Charitable Trust is formed it would enter into a number of agreements with the Council including the

Leases/Licences, the Service Level Agreement (“SLA”) and the Operating Agreement. The directors will have to comply with both the requirements of the Companies Act and OSCR.

There are a number of advantages to this option:

- ▶ Protection and familiarity of the Companies Act.
- ▶ Supported by clear and established legal precedents over the rights and obligations placed over the member of the board.

However, there are disadvantages of this structure, such as:

- ▶ Separate registration is required under Companies Act and under OSCR requirements.
- ▶ Reporting requirements apply under both regulatory regimes.
- ▶ Board members act as Directors under Companies Act and as Trustees under OSCR regulations.

4.2.3 Option 2: Scottish Charity Incorporated Organisation (“SCIO”)

The SCIO is a new legal form of charity available in Scotland which was introduced in April 2011. As with a company limited by guarantee, the SCIO is a corporate body and so can hold property and enter into contracts in its own name. The members of the SCIO also have the benefit of limited liability.

The purpose of the SCIO was to create a corporate model that is specifically tailored to the requirements of the charity sector and allows charities access to the benefit of limited liability whilst simplifying the regulatory framework. The key features of this structure include:

- ▶ OSCR is responsible for granting both charitable status and a corporate identity at the same time
- ▶ SCIOs are governed solely by Scottish Charity legislation and not governed by the Companies Acts.

The benefits of a SCIO when compared with a company limited by guarantee are considered to be:

- ▶ A simpler registration process in relation to charitable status and incorporation, as OSCR grants charitable status and a corporate identity simultaneously
 - ▶ A simpler regulatory regime, as the reporting requirements are those that apply to Scottish charities and avoids reporting to both Companies House and OSCR
- ▶ The legal framework governing SCIOs is simpler in comparison
- ▶ The duties of charity trustees have been simplified, so the trustees are only subject to the requirements of Scottish charities legislation.

However, there are disadvantages of a SCIO structure, such as:

- ▶ A key downside of the SCIO is that it is not incorporated under the Companies Act and therefore is not afforded the same legislative protection. Similarly, the SCIO is a new structure and the processes required for certain circumstances may not have precedent to rely upon.
- ▶ A SCIO must have at least two members, which differs from the company structure, which only requires a sole member. In practice, this means the Council will need to

set up a nominee company to constitute the second member. The SCIO’s constitution can be drafted so that the Council has the sole power to appoint the board. Additional administration would be required to set up a nominee company but, thereafter, the ongoing administration should be minimal as the nominee company would not be active.

- ▶ The application to register a SCIO must be made by at least two individuals and not corporate bodies. The Council, and the nominee company, would be admitted as members at a later point. This can be accommodated by having provisions in the Charitable Trust constitution, stating that as soon as

the Council and the nominee company are admitted as members, the two initial individual members, cease to be members.

- ▶ SCIOs can be removed from the Scottish charity register by OSCR, which would automatically prompt the entity to cease as a corporate body. Conversely, if a company limited by guarantee is removed from the Scottish charity register there would be no effect on it continuing to exist as a legal entity. Practically, it would be highly unlikely that OSCR would proceed with the dissolution of a SCIO without first carrying out detailed enquiries and without having compelling reason for taking such action.
- ▶ A SCIO is unable to grant a floating charge security over its assets. SCIOs are, however, able to grant fixed charges securities over assets, such as land or buildings, similar to a company. Typically, this is not a problem as all the Charitable Trust's major assets would be owned by the council and leased to the Charitable Trust.

4.2.4 Option 3: Industrial and Provident Society (“IPS”)

An IPS is similar to a company but is governed by different legislation and is incorporated through the Financial Conduct Authority (“FCA”) rather than under the Companies Act. IPSs can be used for charitable purposes provided they can demonstrate they are for “community benefit”. The key features of an IPS structure include:

- ▶ They are registered under the Industrial & Provident Societies Act 1965
- ▶ They are corporate bodies with limited liability
- ▶ They qualify for registration if they are conducting a business or trade established for the benefit of the community.

The IPS legislative framework and registration system do, however, lag behind company law. From a structural perspective, it offers no advantages over a company limited by guarantee or SCIO structure and, as such, is rarely used by local authorities developing a Charitable Trust.

4.2.5 Other considerations - Charitable Trading Subsidiary

Irrespective of which option is chosen, it is anticipated that the Charitable Trust will require a Charitable Trading Subsidiary to undertake all non-primary purpose activities. These include all activities that do not fall squarely within the charitable objectives of the organisation (e.g. bar, café and rental of business spaces).

The Council should note that the creation of a Charitable Trading Subsidiary may result in additional burden on the financial and legal workstreams. This should be considered prior to implementation.

4.2.6 Recommendation

Local Authorities would commonly adopt a Company Limited by Guarantee status as well as the Charitable Trading Subsidiary. The structure offers the protection and familiarity of the Companies Act, supported by clear and established legal precedents over the rights and obligations placed on the members of the Board.

An organisational structure that adopts this approach is defined in the following diagram.

Figure 4 - Proposed organisation structure



Source: EY

4.3 Charitable Trust board and governance

As part of the future governance structure of the Charitable Trust, the size and structure of the board of directors should be established. A detailed discussion of these points is contained within Appendix B. The following narrative highlights the commonly adopted principles.

OSCR guidance mandates that the Charitable Trust Board be made up of a minority of Council Elected Members and a majority of independent representatives. A number of Trusts have chosen to include an additional representative from the Trade Unions. The Chair would be an independent representative elected by the Board itself. In addition, there could be representatives from Aberdeenshire Council Officers who would act as observers on the board.

The recruitment of the board should be designed to ensure an optimal mix of skills and experience. It would be necessary for the board recruitment process to commence as soon as possible. If the Council takes the decision to proceed with the Trust, there would be value in exploring implementing the recruitment process as early as possible. The board would normally be recruited prior to the go live date of the Charitable Trust and will therefore act as a “shadow” board between recruitment and commencement of operations. An illustrative skills matrix showing the desirable attributes is shown in Appendix C based on EY’s experience of what works well elsewhere.

4.4 Council and Charitable Trust commercial arrangements

The relationship between the Council and the Charitable Trust would have its basis through a number of contractual documents:

- ▶ Lease Agreements – ownership of the building assets will be retained by the Council and will be leased or licenced to the Charitable Trust.
- ▶ Service Level Agreements (“SLA”) – the Charitable Trust will require a range of support and administration services which it will initially procure from the Council under a number of SLAs, commonly at nil cost.
- ▶ Operating Agreement – sets out the terms of the management agreement between the Charitable Trust and the Council and includes the range of key performance indicators (“KPI”) and the management fee.
- ▶ Management Fee – The Financial Case demonstrates that the operations being transferred to the Charitable Trust operate with a net expenditure which would require external funding for the Charitable Trust to be financially viable. Consequently, the Council would pay for the services of the Charitable Trust in the form of a management charge. This would initially be set at a rate reflecting the operational net expenditure gap transferring to the Charitable Trust but would be expected to reduce over time as the Charitable Trust improves the service offering, drives revenue and achieves operational efficiencies.

Despite the contractual basis of the relationship between Council and Charitable Trust, it is important that the Charitable Trust is supported by the Council, particularly in the early years and so the Charitable Trust must be set up in such a way that the advantages of its armslength structure and charitable status are maximised.

4.4.1 Support Services

The provision of support services to the Charitable Trust is another important consideration. It is expected that these services will encapsulate a number of different services including HR, Finance and Legal services. The CSC services are responsible for over 10% of the Council's total workforce and therefore the associated support costs are expected to be a significant expense to the Trust.

There are different service delivery options for the provision of support services.

- ▶ Council retains control - the responsibility for delivering these services may be retained by the Council. All services are provided to the Trust for nil cost. There are a number of financial benefits from adopting this position, developed in the financial case.
- ▶ Control transfer to the Trust - alternatively, there are also significant commercial advantages for passing on responsibility of these services to the Trust. The Trust may decide to continue to utilise

Council services for an agreed fee. Alternatively, the Trust may also look to third party providers or hire their own specialist support.

There are also legal implications when deciding who should retain responsibility for these services. For this reason, we recommend that the Council obtain separate legal advice on this matter.

4.4.2 Maintenance Options

One of the key aspects of a Charitable Trust is that the Council retains ownership of the assets. Therefore, it is in the interest of the Council to maintain these assets. Other authorities have deemed it prudent to commit a portion of the expected annual NDR/VAT savings to a planned maintenance regime. This helps to bring the assets to standard base condition and would allow them to improve over time.

The initial maintenance options are based on whether the maintenance is supplied by the Council to the Charitable Trust or procured directly by the Charitable Trust:

► **Option 1: Council delivery.** Statutory maintenance works, as scoped in the Hard FM schedule, are delivered through the Council's preferred supplier, at no charge to the charitable Trust. This approach allows the Council to reclaim the VAT incurred of the related expenditure where it relates to the Council's non business activities. In this scenario, the Council does not charge the charitable Trust for these works there is no direct effect on the management fee. In terms of Capital investment works, this will further be delivered by the Council, with works being prioritised along with other areas of Council Service Delivery commensurate with the available budget..

► **Option 2: Charitable Trust delivery.** If the Charitable Trust is given responsibility for all necessary capital and maintenance works this would mean that the Charitable Trust would incur expenditure and accordingly would require the payment of a higher management fee from the Council to the Charitable Trust to balance the income and (higher) expenditure. The Charitable Trust will not be in a position to reclaim all the VAT incurred on the spend.

The advantages and disadvantages of the two different maintenance options are shown in the following table:

Table 16 - Advantages and disadvantages of maintenance options

Option	Advantages	Disadvantages
Option 1: Maintenance responsibility is retained within the Council	The Council can reclaim the VAT on capital expenditure.	Charitable Trust does not have control of its own maintenance regime and cannot act independently.
Option 2: Maintenance responsibility is transferred to the Charitable Trust	Charitable Trust has control of its own maintenance regime and can operate independently of the Council. Other advantages of this approach include; flexibility, prioritisation of repairs and the ability to adapt to changing customer demand.	The Charitable Trust is liable for the VAT and cannot reclaim the VAT in full.

Source: EY analysis

The implications of Option 2 are that the Charitable Trust will suffer a partial VAT cost on any capital works or repairs and maintenance obligations. Where the Charitable Trust has a VAT recovery position of 50% recovery this will result in a 10% VAT cost.

Typically, we would see a Trust and Council reaching agreement that the responsibility for repairs and maintenance is shared. In this circumstance, the Trust is normally responsible for minor works up to a pre-agreed Council limit. This allows the Trust to benefit from the advantages noted above, for example, carrying out basic repairs (such as repairs to lighting) without having to approach the Council every time repairs of this nature are required. Using this agreement, the Council remains responsible for large capital expenditure and therefore limits irrecoverable VAT.

This is particularly relevant if the Trust wants to invest in significant amounts of capital works or asset enhancement. If this responsibility sits with the Trust, there could be significant VAT liabilities arising on large value investments. The Council should consider reviewing the asset base, undertake stock condition surveys and start to consider how these arrangements will form part of any management arrangements.

Over time, the Charitable Trust may be able to procure external contractors at a more competitive rate reducing the price differential, subject to compliance with procurement rules and so allowing the Charitable Trust to have control of its maintenance regime may be achievable without a material financial impact on the Council. However, in our experience Trusts are required to continue with existing contractual arrangements until such time as those obligations expire.

If the preferred option is approved by the Council, a decision on the approach to maintenance delivery and funding would be required during the development phase.

4.4.3 KPIs

The Charitable Trust should measure, monitor and analyse performance in order to ensure best practice and the highest levels of delivery. Aberdeenshire Council has an established framework of performance indicators that help to align and quantify the strategic priorities of its services. These are linked to the service objectives, for example “reduce inequalities in outcomes for children, young people and families”. Examples of performance indicators linked to this objective are:

- ▶ Number of users of sports facilities (swimming pools)
- ▶ Number of users of sports facilities (indoor sports and leisure)
- ▶ Number of visits to libraries
- ▶ Number of visits to visitor attractions

The Charitable Trust should also have a process in place that allows management to monitor progress. The use of KPIs is critical to this process as they are:

- ▶ A powerful tool which ensures an improving standard of delivery
- ▶ A means of actively measuring customer and employee satisfaction
- ▶ Enables the Council to measure and appraise the Charitable Trust based on performance

The KPIs are used to ensure the progress of the Charitable Trust by actively managing and communicating with customers, staff, management and the Charitable Trust Board. It should form part of the formal management reporting including:

- ▶ Monthly overview by Charitable Trust Board
- ▶ Periodic Council meetings
- ▶ An annual report for the Council

The monitoring of KPIs should be linked to a Continuous Improvement Plan and reflected in the Charitable Trust business plan, setting out commitments to continuous improvement and targets that offer positive benefits. It should be reviewed annually in line with the Charitable Trust Business Plan.

Where performance is below target, or can be improved, the Charitable Trust should be required to develop action plans to be implemented and monitored to improve identified areas of weakness/improvement. This is particularly important as a number of local authorities that have recently implemented Charitable Trusts have undertaken benefit realisation exercises post implementation to review the success of the process.

During the preparation of the Business Plan, the Charitable Trust and the Council would agree a suitable set of KPI's with which to measure performance.

4.5 Staffing considerations

The role of staff will be critical to the successful establishment and operation of the Charitable Trust. Staffing issues such as TUPE and pensions will need to be appropriately managed.

4.5.1 TUPE

With the creation of the Charitable Trust, there are Transfer of Undertaking (Protection of Employment) (TUPE) implications for the Council. All staff wholly or mainly assigned to the “transferable role” will move to the Charitable Trust. This will have significant implications for Aberdeenshire Council given the significant number of staff within the CSC services. With over 1,700 employees, these services represent 10% of the Council’s total workforce.

Staff will transfer with their existing terms and conditions of employment under TUPE. This includes:

- ▶ Current salary
- ▶ Hours of work
- ▶ Sick Pay
- ▶ Continuous service
- ▶ Annual leave and public holiday entitlement
- ▶ Working hours as per employment contract

If the Council was to approve the implementation of the Charitable Trust, obtaining legal advice on this area will be essential.

4.5.2 Pensions

The Charitable Trust will apply to be given admitted body status within the North East Scotland Pension Fund (NESPF). This would enable Charitable Trust employees to continue to participate in the Local Government Pension Scheme with no changes to pension provision and full service protection.

By entering NESPF as an admitted body, the Charitable Trust would be committing to all terms that need to be met by the employer. NESPF has a structured process that the Council and Charitable Trust will need to follow before any firm commitment can be given and this process can take between three and six months.

As far as we are aware all other councils who have set up a Charitable Trust have been successful in achieving admitted body status.

We have not included any additional employer pension contributions expenses. Employer contribution rates will be determined by the Pension Fund’s actuary. These rates will be reassessed on periodic basis, as determined by the pension fund agreement between the Trust, NESPF and Aberdeenshire Council. In our experience with other local authorities, there have been no significant changes to the employer pension contribution expenses from moving to this new model. However, we’re aware that if Aberdeenshire Council were to proceed with the Charitable Trust, a significant number of employees would be effected. As such, it would be prudent for Aberdeenshire Council to further refine all likely recurring costs for the completion of the FBC.

4.6 Summary

This section has set out the commercial case of applying a Charitable Trust structure as the model to deliver CSC Services.

The structural options for the Charitable Trust were set out and the recommendation is that a Company Limited by Guarantee be used. This company would have a Board of Directors comprising elected members and independent members, with an independent member taking the Chair. The main commercial arrangements between the Council and the Charitable Trust would cover areas such as a lease arrangement (ensuring the ownership of assets remains with the Council), service level and operational agreements and setting a management charge.

The appropriate management of staffing issues will be critical to the successful establishment and operation of the Charitable Trust.

The management case considers how these issues should be taken forward as part of the wider project management and planning approach.

5. Financial Case

5.1 Introduction

With the creation of a Charitable Trust chosen as the preferred delivery option, the financial case presents the projected year one financial position. This is informed by a review of:

- ▶ The financial position for the CSC Services for the year 2015/16
- ▶ Adjustments to the 2015/16 financial position to reflect specific expected actual financial position of the Charitable Trust in year one
- ▶ A review of the expected NDR and VAT savings from these services.

To provide a further transparency over the options appraisal process, we have also reviewed the likely financial position for the second placed option, the enhanced status quo/DSO.

5.2 Financial position for 2015/16 for CSC services

To understand the potential financial advantages of the Council creating a Charitable Trust, a baseline financial position has been established. This is based on the 2015/16 financial information for the CSC services. This financial case reflects the position of the project at the time of our site visit in the week commencing 8 August 2016. The financial position is set out below.

Table 17 - 2015/16 base financial position

	Culture £000	Sport £000	CLD £000	Total £000
Income	(407)	(10,060)	(112)	(10,579)
Staff costs	4,435	7,105	2,607	14,147
Premises costs	834	2,322	408	3,564
Administration costs	75	228	625	928
Transport costs	87	53	38	178
Supplies and Services	829	747	109	1,685
Payments to agencies and others	139	5,578	5	5,722
Total Expenditure	6,399	16,033	3,792	26,224
Total Net Expenditure	5,992	5,973	3,680	15,645

Source: Aberdeenshire Council

The analysis highlights that these services have income of approximately £10.6m and costs of £26.2m. This results in a total net expenditure balance of £15.6m. This position does not include other CSC budgets (for example, central support costs) that should be considered going forward. A number of assumptions have been made whilst compiling this information. Please see Appendix D for more information.

5.3 Projected year one financial position

The first year of trading of the Charitable Trust will reflect a number of adjustments from the financial position in 2015/16. These adjustments reflect the following factors:

- ▶ Inclusion of additional costs in respect of the new Charitable Trust structure:
- ▶ One off transition costs for setting up the Trust
- ▶ Recurring annual operational costs
- ▶ Recognition of the savings generated by the Trust in respect of NDR and VAT.

Table 18 – Trust’s projected year one financial position, incorporating expected costs and savings

	Base position	Transition Costs	Recurring costs	NDR Saving	VAT Saving	Year 1
Income	(10,579)	-	-	-	-	(10,579)
Staff	14,147	20	-	-	-	14,167
Premises costs	3,564	-	-	-	-	3,564
Administration costs	928	-	-	-	-	928
Transport Costs	178	-	-	-	-	178
Supplies and Services	1,685	145	165	-	-	1,995
Payments to Agencies and Others	5,722	160	20	-	-	5,902
NDR and VAT Savings	-	-	-	(1,219)	(8)	(1,227)
Total Expenditure	26,224	325	185	(1,219)	(8)	25,507
Total Net Expenditure	15,645	325	185	(1,219)	(8)	14,928

Source: Aberdeenshire Council and EY Analysis

The overall impact of making these adjustments is to project an underlying net expenditure of £14.928m. There are a number of significant observations that this analysis presents:

- ▶ The net impact of the NDR and VAT savings, offset against the first year transition and recurring costs results in a net saving of £0.717m against the status quo. These savings derive from the assets managed by the CSC services.
- ▶ Our analysis indicates that there will be an initial payback period of three months for the first year transition costs when compared against the NDR and VAT savings currently available. For more information on the transition costs, see section 5.3.2.
- ▶ Our analysis indicates that there will be an annual net saving of £1.042m when accounting for the recurring costs (this is the difference between the annual NDR and VAT savings and the annual recurring costs). For more information on the recurring costs, see section 5.3.3.

5.3.1 Adjustment for non-cash items

No adjustments have been made for non-cash items. Aberdeenshire Council confirmed that the base position does not contain any non-cash expenses such as depreciation or non-cash payroll costs. This should be reviewed prior to the completion of a Full Business Case.

5.3.2 Transition costs

A new Charitable Trust would incur a range of transition costs. These will be incurred during the process of establishing the Trust in the first year. These costs are likely to include:

- ▶ All IT costs associated with a new website, equipment and other consumables
- ▶ Marketing, branding and communication strategy
- ▶ Other office set up costs
- ▶ Corporate governance costs – costs including company registration, trustee insurance and shadow board governance training
- ▶ Council advisory costs - financial and legal advisor costs
- ▶ Staff costs including recruitment expenses and relocation costs etc.

Based on our experience of costs associated with similar Trust’s in the past, we have identified the following range of costs:

Table 19 - transition costs

Category	Range	
	Low £000	High £000
IT	25	45
Marketing, branding and communication	50	75
Other office set up costs	5	15
Corporate governance costs	5	10
Council advisory costs	110	160
Staff costs	10	20
Total	205	325

Source: EY

Given the size of the services and the number of staff, we would anticipate that the final transition costs would be at the higher end of the range shown above. For this reason, this is the range of costs we have modelled in the Financial Case. These costs should be reviewed and refined during the development of the Full Business Case.

5.3.3 Ongoing recurring costs

In addition to the one-off transition costs, the Trust is also likely to incur recurring annual costs. A range of costs have been shown in the table below:

Table 20 - recurring costs

Category	Range	
	Low £000	High £000
Marketing	20	50
External Auditors	10	20
Legal and Regulatory costs	10	30
Trustee Expenses (Insurance, expenses, recruitment)	5	10
Contingency	50	75
Total	95	185

Source: EY

Like the transition costs, we would expect the final costs to be at the high end of this range.

5.3.4 NDR and VAT Savings

The VAT position has been modelled based on a range of savings depending on the acceptance by HMRC of the proposed approach. Should the Council decide to proceed with a Charitable Trust, it is critical that the VAT position is agreed with HMRC as soon as possible as it is not possible to provide certainty on the potential VAT savings until HMRC has confirmed its approval of the proposed arrangements. The underlying assumptions for each scenario have been summarised below:

Table 21 - Summary of differences between cases

Responsibility for	Case 1	Case 2
Utilities	Trust	Trust
Repairs & Maintenance	Trust	Trust
Support Services	Council	Trust

Source: EY VAT Analysis

These cases represent prudent approaches for the purposes of assessing potential VAT savings. We understand that, particularly in respect of repairs and maintenance activities, an operational decision would be required by the Council and then receive subsequent approval from HMRC.

We have modelled the two cases in this way to present prudent savings analysis. Where utilities, repairs and maintenance and support services are the responsibility of the Trust, this limits VAT savings by increasing irrecoverable VAT. VAT savings increase where responsibility for utilities, repairs and maintenance or support services remain with the Council. However, this must be agreed with HMRC. HMRC is generally more accepting of responsibility for support services remaining with the Council but has been known to scrutinise utilities and repairs and maintenance to a greater degree. As such, the starting assumption for preparations of a FBC is that any Trust would be part of the Council's Hard FM arrangements. However, this NDR and VAT analysis sets out the most prudent assumptions and any FBC analysis (based upon the above assumptions) is likely to be neutral or more beneficial

A breakdown of the range of possible annual NDR and VAT savings of these options is included in the following table.

Table 22 – Scenario 1 position (£000)

	NDR	VAT savings	Irrecoverable VAT	Total
Sports and Leisure	800	462	(233)	1,029
Libraries	160	0	(109)	51
Museums	27	0	(25)	2
Macduff Aquarium	23	52	(46)	29
Aberdeenshire Life	0	22	(13)	9
Arts Development	2	0	(16)	(14)
Community Centres	207	0	(43)	164
Total	1,219	536	(485)	1,270

Source: EY VAT Analysis

Case 1 calculates that the total NDR and VAT savings is £1.270m. This is based on the assumption that the Trust takes responsibility for repairs, maintenance and the utilities costs associated with the CSC services. The Council would take responsibility for providing the support services to Charitable Trust for no charge.

Table 23 – Scenario 2 position (£000)

	NDR	VAT savings	Irrecoverable VAT	Total
Sports and Leisure	800	462	(263)	999
Libraries	160	0	(111)	49
Museums	27	0	(27)	0
Macduff Aquarium	23	52	(49)	26
Aberdeenshire Life	0	22	(15)	7
Arts Development	2	0	(18)	(16)
Community Centres	207	0	(45)	162
Total	1,219	536	(528)	1,227

Source: EY Analysis

Case 2 calculates that the total NDR and VAT savings is £1.227m. This is based on the assumption that the Charitable Trust contracts out the repairs, maintenance and the utilities services and support services. As a result, they would only be partially recoverable for VAT purposes. For example, supply of office equipment, ICT, legal etc.

In summary, there are potential NDR and VAT savings ranging from £1.270m to £1.227m. Throughout this financial case, we have included Case 2's NDR and VAT savings to present the Council with a prudent view of the savings. For a full list of all the assumptions underpinning this analysis, please see Appendix E.

For more information about the NDR and VAT position across each of the options, as well as further assumptions, please see Appendix E.

5.3.5 VAT savings

It is expected that the Charitable Trust will have charitable status and consequently certain income it generates will be exempt for VAT purposes under the VAT Sporting Services and Culture Services exemptions, and this can provide VAT savings in the Trust. The Council is currently required to charge VAT on the provision of these services, whereas the Trust should be able to treat the provision of the services as exempt for VAT purposes. The savings arise where the price charged to customers remains unchanged and the Trust is able to retain the portion of income that the Council had to charge and account for as VAT.

This can be best demonstrated with a simple example:

- ▶ The Council charges £5 for admission to swimming
- ▶ £5 includes 83p of VAT – the net receipt is £4.17
- ▶ The Trust charges £5 for admission to swimming
- ▶ £5 is exempt from VAT – the net receipt is £5

- ▶ Saving is 83p.

Where the Trust provides services to the general public free of charge there will be nonbusiness use of those assets. As the Trust does not benefit from the Council's s.33 VAT Act 1994 status this requires the Trust to restrict a proportion of the VAT it incurs on expenditure where it is not used for taxable business purposes. Where the Trust undertakes activities that are exempt from VAT this will also require the Trust to restrict a proportion of the VAT it incurs on expenditure.

The Business/Non-Business/Partial Exemption calculation (B/NB/PE) will determine how much VAT the Trust is entitled to reclaim. The restriction used for the purposes of the analysis is based on a combination of your data and our experience of what Trusts will typically realise once they go live. Should the Council decide to proceed with a Charitable Trust, a sectorised B/NB/PE will be calculated and a position for the Trust as a whole will need to be agreed with HMRC.

Some sporting activities delivered by the Council are funded by grants as typically the users are not charged for the provision of the leisure service. The analysis has also been based on the Council continuing to receive the grant funding. The Council continues to act as the principal subcontracting the management and delivery of the relevant projects to the Trust. Where this is the case the Trust will need to ensure the correct VAT treatment is applied to its supply of services to the Council. The VAT position will need to be considered on a case by case basis to determine whether it is a non-business grant arrangement or it should be treated as a taxable service.

5.3.6 NDR position

We estimate that the Trust could realise NDR savings in the region of £1.219m p.a.

The NDR savings assume that the Trust will be a registered Charity and that the application to OSCR for charitable status will be approved.

The NDR savings are based on the total NDR costs for each venue discounted by the 5% discretionary relief that the Council will be required to fund.

The figures assume that the Trust is able to obtain the full 100% discretionary relief on each of the venues. To achieve this, the Trust needs to occupy the venue and it will need to be used 'wholly or mainly for charitable purposes'.

Where the Trust is unable to obtain the 100% discretionary relief this will directly impact on the NDR savings that can be achieved. At this stage it is not possible to confirm whether or not the Trust will be able to achieve the 100% discretionary relief. This analysis is commonly undertaken at FBC stage.

Community Empowerment (Scotland) Act 2015

The Community Empowerment (Scotland) Act allows local authorities to create localised NDR relief schemes. Local authorities are able to grant the relief to any type of ratepayer or for any reason, granted to a sole property, a street, a town centre or a particular type of business or sector. We understand that the Council has sought clarification on whether the legislation would allow the Council to benefit from the NDR savings without implementing a Charitable Trust. We recommend that advice on the application of this legislation is sought from a legal advisor. However, we have informally spoken with legal advisors and understand, however, that this is not the case.

Our understanding is that a local authority has to account to Scottish Government for the gross amount of NDR due (i.e. including any NDR the Council has elected to waive). As a result, there would be no net benefit to the Council. Additionally, the s140 discretion (in accordance with the Act) could be challenged by way of judicial review. This would subsequently wipe out any gains accrued.

Furthermore, the legal view was that, if the Council were found to be giving rates relief to connected entities and not to others, this could be seen as an irrational or unlawful exercise of discretion. This is intensified due to the requirement to give regard to income/expenditure and taxpayer's interests when exercising their discretion. This could mean that a taxpayer's alliance group might have standing to raise a challenge as well as businesses who had not been granted relief.

By contrast, we consider that, the charitable trust approach is tried and tested and is based on a rationale that appears to be defensible.

Key Assumptions

The NDR savings identified are dependent on confirming the application of the 100% discretionary relief with the Rates Assessor. A specific area of focus for the Assessor will be those facilities with Dual Use, and an adverse outcome in this area could reduce the level of NDR savings. The treatment of these assets is therefore considered to be an area of financial risk. This will be updated for the final business case and business plan. Ultimately the level of NDR savings should be agreed by the Rates Assessor.

5.3.7 Capital expenditure

The financial position highlighted above does not contain any depreciation expenses. A significant area of cash flow demand can be the need to incur substantial capital expenditure. Such expenditure is commonly excluded from the base management fee paid by the Council to the Charitable Trust, accordingly separate arrangements are required. Such arrangements can include the Council incurring the expenditure or for the Charitable Trust to borrow and spend.

We are aware that there are a number of new build programmes at Banchory, Banff and Macduff, Inverurie and Peterhead, all of which are either anticipated, in planning or procurement. However, we consider that these projects represent strategic capital decisions taken independently of the consideration of the model for service provision.

5.3.8 Other exceptional events

There were a number of minor closures to leisure facilities during the year. These have been programmed and form part of a wider proactive maintenance process. However we understand that there were no material exceptional events within the 2015/16 financial year that would require the financial position of the Trust to be adjusted in the future.

5.4 Financial position – enhanced status quo/DSO

This Financial Case has established the likely financial position of implementing the Charitable Trust – the preferred option identified in the Economic Case. However, as we have stated in the Economic Case, Option 2 – enhanced status quo/DSO, also scored favourably. For this reason we have developed a forecast financial position for this option, to provide further transparency over the options appraisal process.

As we have noted in section 5.4.3, this delivery model will not benefit from any additional NDR and VAT savings, other than those available from the status quo. However, it is likely that there will be additional transition and recurring costs for this model.

► Transition costs – It is likely that one-off marketing and branding costs will be incurred to promote the new service delivery model. There may also be the desire to invest in the new equipment or IT, to ensure the successful transition across to a new service delivery organisation. For this reason costs in the range of £100k - £150k may be expected.

► Recurring costs – We would expect there to be additional staff costs for this new structure. With a new organisation structure, it is likely new posts would be created to manage and operate this new model. We would also expect there to be an ongoing marketing budget for these services. For this reasons, we expect costs to range from £250k – £300k per annum.

With these costs in mind, we have illustrated the likely impact this would have on the total net expenditure for these services:

Table 24 - Enhanced status quo/DSO - adjusted year one position (£000)

	Base position	Transition Costs	Recurring costs	NDR Saving	VAT Saving	Year 1
Income		-	-	-	-	(10,579)
Staff	14,147	-	250	-	-	14,397
(10,579) Premises costs	3,564	-	-	-	-	3,564
Administration costs	928	-	-	-	-	928
Transport Costs	178	-	-	-	-	178
Supplies and Services	1,685	150	50	-	-	1,885
Payments to Agencies and Others	5,722	-	-	-	-	5,722
NDR and VAT Savings	-	-	-	-	-	-
Total Expenditure	26,224	150	300	-	-	26,674
Total Net Expenditure	15,645	150	300	-	-	16,095

Source: EY

Based on this analysis, there would be a total net expenditure of £16.095m in the first year. This is compares to the £15.645m base case and £14.928 of the Charitable Trust. This would suggest that the enhanced status quo/DSO is significantly less cost effective than the Charitable Trust.

5.5 Funding Strategy

The funding strategy for the Trust would cover two areas. Firstly, the ability to meet day-to-day revenue funding requirements, and secondly, delivering any capital funding needs. The revenue funding gap, identified as the net expenditure figure in section 5.3, would be met by the Council's management charge. Additionally, any capital funding requirements, for example any significant repairs or maintenance demands would be met by the Council's capital budget (as discussed in section 4.4.2).

The Charitable Trust, however, presents the opportunity for the Trust to explore alternate funding streams that are less assessable to the Council. This may take the form of grants or donations, which would benefit from additional tax relief through the gift aid system. This would enhanced the value of any donations. Although this income would not represent the majority of the Trust's income, other Charitable Trusts have seen their income supplemented in this way.

5.6 Summary

In this section, the base financial position of the future operating model has been established. The financial projections reflect:

- ▶ The 2015/16 financial outturn of £15.645m total net expenditure for the CSC services.
- ▶ The first year financial position of the Charitable Trust has been established after making adjustments for transition costs of £0.325m and recurring costs of £0.185m.
- ▶ The Charitable Trust would be expected to make significant savings in respect of NDR and VAT of between £1.227m and £1.270m. For the purposes of this analysis we have applied a prudent assumption of £1.227m saving.
- ▶ The enhanced status quo/DSO would not benefit from any additional NDR or VAT savings. We would expect there to be additional transaction costs of £0.150m and recurring costs of £0.300m. This would result in first year total net expenditure of £16.095m.
- ▶ The Charitable Trust Option therefore generates recurring savings of £1.227m over the current model of service provision, or £1.167m over an enhanced status quo/DSO.

6. Management Case

6.1 Introduction

The purpose of this section is to:

- ▶ Demonstrate that the implementation of the Charitable Trust is achievable and can be delivered successfully in accordance with accepted best practice.

The assessment will be informed by:

- ▶ The phase two project plan and outline
- ▶ The proposed governance structure and legal implications
- ▶ The current risk register and proposed communication plan.

6.2 Project outline, project plan

Once a decision is taken regarding the future operation model of the CSC services, a detailed project plan is required that identifies the key tasks and likely timescales needed to implement the Charitable Trust.

Before the creation of a detailed project plan there are a number of statutory and regulatory issues that are expected to take longer and should therefore be considered. These are:

- ▶ Implementing and carrying out an effective communication process, both internally to Council employees and externally to end users, can take between four to six months to undertake. This will include Trade Union consultation.
- ▶ Developing legal documentation including lease agreements, management agreements and transfer and service agreements can take up to three months to complete.
- ▶ OSCR application and approval. Similar Charitable Trusts have taken up to six months for the OSCR application to be approved.
- ▶ Admissions to the North East Scotland Pension Fund. Given the structured process that the Council and Charitable Trust will need to follow before any firm commitment can be given, this process can take between three and six months.
- ▶ Preparation of a Full Business Case.

Operational factors that require to be addressed include:

- ▶ Review of the underlying assets and package of services being proposed for transfer.
- ▶ Future approach to the maintenance and repairs of the Charitable Trust assets, and to capital expenditure requirements.
- ▶ Shadow board members and Chief Executive recruitment and training. Including job advertisement, recruitment and training, this process would be expected to take a significant period of time. Given the prominence of the Chief Executive's role and the likely notice period individuals may face prior to taking up this role, this process would take at a minimum three months.
- ▶ Addressing the financial and administrative implications of setting up a charitable trust. For example, in our experience setting up bank accounts for the Trust can take longer than expected, given the stringent "know your client" procedures banks have to undertake.

In our experience, Councils commonly appoint specialist legal advisors to provide assistance to the in house Council expertise with the following areas:

- ▶ Preparation of incorporation and constitutional documents

- ▶ Creation of Asset Lease Agreements
- ▶ Creation of Service Level Agreements

Based on our experience working with other local authorities, implementation can take up to 12 months from the date of Council approval.

The timetable should be developed for the Full Business Case.

6.3 OSCR

Upon incorporation, the new company would submit its application to OSCR (Office of the Scottish Charity Regulator) for charitable status. OSCR is Scotland's charity regulator. A number of considerations must be taken into account before this application process begins:

- ▶ In order for the Charitable Trust to meet the 'charity test', it should ensure that it charitable objectives and goals in addition to providing benefits to the public.
- ▶ As the Charitable Trust will be run by a board that will include a majority of independent trustees, it will potentially result in a change of control for the council.
- ▶ Similar Charitable Trusts have typically taken up to six months for this application process to be approved. This should be factored into the project plan to ensure the Charitable Trust is established within an appropriate timeframe.

There are also additional financial and administration considerations for the Council that they must consider upon a successful OSCR application. A separate set of Charitable Trust charitable accounts must be produced that complies with the charities statement of recommended practice ("SORP"). The Council must ensure that there are adequate in-house technical resources in place to produce these accounts, or consider the addition costs of outsourcing this service.

Further consultation will be undertaken during the Full Business Case and this has been reflected in the project plan.

6.4 Risk Register

The Project Team have developed and manage a detailed risk register for the project. The effective identification, quantification and monitoring of risk is a critical part of effective project delivery. A full register outlining all the pertinent risks faced by the Charitable Trust is contained in Appendix F.

These risks will be reviewed and revised at the Full Business Case.

6.5 Contingency plan

Should a new model for service provision not be implemented the contingency plan would be for the current model to continue. This approach ranked third in the options appraisal process. This is considered to be the approach that would allow service provision to continue in its current format with no impact on service users.

6.6 Communication Plan

Successful implementation of a new mode of service delivery will require clear and regular communications. These communications will be required with all stakeholders, including:

- ▶ Elected members
- ▶ Council employees
- ▶ Service users

A communications plan will be developed during the preparation of the full business case. It will look to provide regular updates on progress and to allow stakeholders to raise questions with the Council

team. The Council is also likely to receive enquires from the media and accordingly the Council Press Team should be kept regularly briefed.

6.7 Next Steps

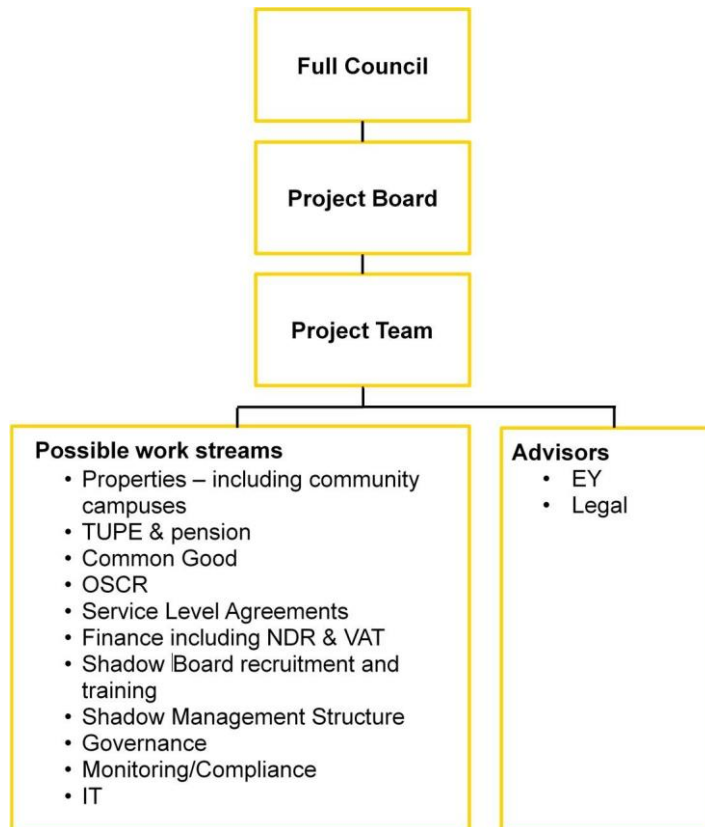
Should the Council decide to develop a FBC for the Charitable Trust, there are a number of next steps that should be considered. A list of the time consuming tasks is noted in section 6.2. We would expect, however, that the following key next steps to be explored within the Full Business Case:

- ▶ Strategic case
- ▶ Confirm the final package of services being transferred to the Trust.
- ▶ Undertake a comprehensive review of the assets within these services and decide on a final assets list for transfer.
- ▶ Economic case
- ▶ Monitor the conclusion from the options appraisal process and ensure it remains aligned with the strategic objectives of the Council.
- ▶ Commercial case
- ▶ Confirm the preferred approach to the Charitable Trust's legal structure.
- ▶ Undertake Shadow Board recruitment and review governance arrangements.
- ▶ Develop legal documentation including lease agreements, SLAs and management charge.
- ▶ Confirm approach for the provision of support services, maintenance and utilities.
- ▶ Financial case
- ▶ Undertake detailed NDR and VAT analysis.
- ▶ Review the base financial position and reflect on any further amendments to this position.
- ▶ Refine transition and recurring costs.
- ▶ Management case
- ▶ Develop robust and comprehensive project plan.
- ▶ Begin dialogue with OSCR and HMRC.
- ▶ Apply for admitted body status to pension scheme and determine the associated financial implications.
- ▶ Agree communication strategy.

6.8 Governance Structure

The following governance structure illustrates the proposed involvement of Aberdeenshire Council. The structure follows the best practice approach adopted to date, with a project team supported by advisors reporting to an overall Board and overseen by full Council.

Figure 5 - Proposed governance structure



Source: EY

The full Council will ultimately be responsible for approving this and any subsequent business cases to implement a new model of service provision.

6.8.1 Full Business Case

The FBC will demonstrate that the strategic case continues to be valid. It will also refine the financial savings and ensure the costs remain valid. Additionally, the FBC will review the commercial arrangements and ensure that employee rights and the asset base is protected. Lastly, it will confirm that a suitable level of service quality is delivered. The FBC will be used to inform the Council prior to it taking a final decision on the implementation of the Trust.

6.9 Summary

This management case has set out how the transfer to a Charitable Trust model of service delivery is achievable and can be delivered successfully. A number of factors that should be used to prepare a detailed project plan at FBC has been prepared. This sets out a challenging set of tasks that will take a significant period of time to implement. We have highlighted tasks that will take a longer period, primarily regulatory activities associated with OSCR applications, discussions with HMRC on tax matters and meeting the requirements of TUPE legislation.

The project will continue to be supported by strong governance, with the Project Team reporting to the Project Board and with decisions on further approval to be made by the full Council. Effective risk management will continue through monitoring and updating the risk register. A suitable contingency plan to continue with the current service model is available, should unforeseen issues delay the implementation of the Charitable Trust.

Throughout this process regular communication with elected members, Council employees and service users will be essential.

As required by Five Case Model guidance the detailed management and implementation of the new model will be set out in the Full Business Case.

Appendix A List of assets

Location and Address	Asset Type
COMMUNITY CENTRES	
Collieston Community Centre, Collieston, Ellon, AB41 8RT	Community Education Centre
Portlethen "Porty Cabin" Cookston Road, Portlethen, Aberdeen, AB12 4PT	Community Education Centre
Esslemont School, Ellon, AB41 8PB	Store
Garioch Community Centre, Victoria Street, Inverurie, AB51 3QS	Community Education Centre
Stonehaven Community Centre, Bath Street / Robert Street, Stonehaven, AB39 2DH	Community Education Centre
Mintlaw Academy Station Road Mintlaw	Community Education Centre
Peterhead Academy & Community Centre	Community Education Centre
Gateway Centre & Turriff Swimming Pool, Victoria Terrace, Turriff, AB53 4EE	Community Education Centre
Insch Community Centre, 35 Commerce Street, Insch, AB52 6JB	Community Education Centre
Westhill Academy Community Centre, Hays Way, Westhill	Community Education Centre
Portlethen Academy Community Centre	Community Education Centre
Aboyne Community Centre, Bridgeview Road, Aboyne, AB34 5JN	Community Education Centre
Banchory Academy Community Centre, Schoolhill, Banchory, AB31 5TQ	Community Education Centre
Hill of Banchory Primary School Banchory New PPP School	Community Education Centre
Linden Community Centre, Gordon Schools, Huntly, AB54 4SH	Community Education Centre
Alford Community Campus	
Kemnay Academy and Community Centre	
Mearns Community Campus	
Meldrum Community Centre	
Ellon Community Campus	Community Centre
Fraserburgh Community Centre and Pool	Swimming Pool
Deveron Centre, Banff	Community Centre
SPORTS CENTRES	
Inverbervie Sports Centre, Kirkburn, Inverbervie, Montrose,	Sports Centre
Turriff Sports Centre, Lower Haughs, Queens Road, Turriff, AB53 4EQ	Sports Centre
Stonehaven Leisure Centre & Pool, Recreation Grounds, Stonehaven, AB39 2RD	Sports Centre
Sports Centre/Games Hall, Banchory Academy, Raemoir Road, Banchory, AB31 5TQ	Sports Centre
Macduff community and sports centre	Sports Centre
LIBRARIES	
Cairnbulg Library, Station Road, Cairnbulg, Fraserburgh, AB43 5YN	Library
Portsoy Library, Aird Green, Portsoy, AB45 2RP	Library

Whitehills Library, 5 Loch Street, Whitehills, Banff, AB45 2LT	Library
Boddam Library, 26 Queens Road, Boddam, Peterhead, AB42 3AX	Library
Cruden Bay Library, Station Road, Cruden Bay, Peterhead, AB42 7NL	Library
New Pitsligo Library, 79 High Street, New Pitsligo, Fraserburgh, AB43 4NH	Library
Strichen Library, 59a Water Street, Strichen, AB43 4ST	Library
Library at Inch Institute, Rannes Street, Inch, AB52 6JJ	Library
Newmachar Library, School Road, Newmachar, Aberdeen, AB21 0WB	Library
Council Chambers & Library, Church Street, Inverbervie, DD10 0RU	Library
Fettercairn Library, Fettercairn School, School Road, Fettercairn, Laurencekirk, AB30 1TH	Library
Newtonhill Library, Greystone Place, Newtonhill, Stonehaven, AB39 3UL	Library
Ballater Library, Station Square, Ballater, AB35 5QB	Library
Aberchirder Library, 111 Main Street, Aberchirder, Huntly, AB54 5TB	Library
Bracoden Library, Bracoden School, Gamrie, Banff, AB45 3HA	Library
Banff Library & Museum, High Street, Banff, AB45 1AE	Library
Fraserburgh Library, King Edward Street, Fraserburgh, AB43 9PN	Library
Macduff Library, High Street, Macduff, AB44 1LR	Library
Rosehearty Primary School Library	Library
Arbuthnot Library, St Peter Street, Peterhead, AB42 1QD	Library
Mintlaw Library, Newlands Road, Mintlaw, AB42 8GP	Library
Balmedie Library, Eigie Road, Balmedie, AB23 8FY	Library
Ellon Library, Station Road, Ellon, AB41 9NE	Library
Library Headquarters, Meldrum Meg Way, Oldmeldrum, AB51 0GN	Library
Meldrum Academy Library	Library
Turriff Library, Grange Villa, The Square, Turriff, AB53 4AE	Library
Inverurie Library, Town House, Market Square, Inverurie, AB51 3SN	Library
Kemnay Library, Kendal Road, Kemnay, AB51 5RN	Library
Kintore Primary School Library	Library
Westhill Library, Westhill Primary	Library
Stonehaven Library, Evan Street, Stonehaven, AB39 2ET	Library
Aboyne Library, Bridgeview Road, Aboyne, AB34 5JN	Library
Banchory Library, Bridge Street, Banchory, AB31 5SU	Library
Huntly Library & Brander Museum, 17 The Square, Huntly, AB54 5BR	Library
Portlethen Community Library, Portlethen Academy	Library
Laurencekirk Library, Mearns Community Campus, Laurencekirk	Library
Alford Community Campus	Library

MUSEUMS

Joiners Museum Workshop, Church Street, Fordyce, Banff, AB45 2SL	Museum
Sandhaven Meal Mill, Sandhaven, Fraserburgh, AB43 7EB	Museum
Aberdeenshire Farming Museum, Aden Country Park, Mintlaw, Peterhead, AB42 5FQ	Museum
Hareshowe Working Farm Museum, Aden Country Park, Mintlaw, Peterhead, AB42 5FQ	Museum

Maud Railway Museum, Units A - D, Station Building, Maud, Peterhead, AB42 5LZ	Museum
Tolbooth Museum, Old Pier, Stonehaven Harbour, Stonehaven, AB39 2JU	Museum
Macduff Marine Aquarium, 11 High Shore, Macduff, AB44 1SL	Museum
Arbuthnot Museum, St Peter Street, Peterhead, AB42 1QD	Museum
Banchory Museum, Bridge Street, Banchory, AB31 5SU and Library	Museum
Banff Museum, High Street, Banff, AB45 1AE and Library	Museum

SWIMMING POOLS

Outdoor Pool and Cafe, Recreation Grounds, Stonehaven, AB39 2RD	Swimming Pool
Portlethen Swimming Pool, Oak Drive, Portlethen, Aberdeen, AB12 4XU	Swimming Pool
Peterhead Swimming Pool, Queen Street, Peterhead, AB42 1TY	Swimming Pool
Banff Swimming Pool, Bellevue Road, Banff, AB45 1BY	Swimming Pool
Turriff Swimming Pool, Victoria Terrace, Turriff, AB53 4EE	Swimming Pool
Victoria Street, Inverurie Swimming Pool	Swimming Pool
Westhill Swimming Pool, Hays Way, Westhill, AB326XZ	Swimming Pool
Indoor Pool and Community Centre, Recreation Grounds, Stonehaven.	Swimming Pool
Mackie Academy swimming pool	Swimming Pool
Aboyne Swimming Pool, Bridgeview Road, Aboyne, AB34 5JN	Swimming Pool
Banchory Academy Swimming Pool	Swimming Pool
Swimming Pool, Gordon Schools, Huntly, AB54 4SH	Swimming Pool
New Ellon Academy Swimming Pool	Swimming Pool
New Alford Community Campus Swimming Pool	Swimming Pool

SPORTS PAVILIONS

Nordic Ski Centre, Ski Lodge, Hill of Haugh, Huntly AB54 4SH	Sports Pavilion
Alford Ski Centre, Alford	Sports Pavilion

STORES

Leisureland, Harlaw Way, Harlaw Industrial Estate, Inverurie, AB51 4SG	Store
Heritage Store/Discovery Centre, Station Road, Mintlaw, Peterhead AB42 5EE	Store/Museum
Heritage Stores, Units 1 - 3 Mintlaw Industrial Estate, Mintlaw, Peterhead AB42 5EE	Store

Source: Aberdeenshire City Council

Appendix B Board Structure Paper

Introduction

The Council is proposing to set up a Charitable Trust to deliver CSC Services. It is likely it will be the form of a company limited by guarantee, which is registered as a charity. This new company will require a separate board of directors/trustees; these will come from one of the three categories:

- ▶ Elected members of the Council;
- ▶ Officers of the Council;
- ▶ External from the council with the appropriate skills and interest.

This paper will discuss the required mix between the categories above. The Board would also have an appropriate skills mix; this is not considered here although is connected to the illustrative skills matrix at Appendix C.

These individuals will be company directors in the terms of company law, and trustees for the purposes of charity law. In this paper, directors will be used to capture both.

Considerations

Conflict of interest

It is likely that directors will need to make decisions in situations where the interest of the company and those of the Council may not be aligned. This could give rise to a conflict of interest.

Both from a company law and charity law perspective, the directors/trustees must put the interests of the company first. If a board member cannot, then he or she must not take part in any discussion or decision on the matter.

On the other side of the equation, for Elected Members the Councillor's Code imposes the "duty to act in the interests of the council as a whole and all the communities serviced by it". This could create tensions for those board members who are Elected Members of the Council. The conflict rules could mean that elected council members would be unable to participate in the decision making process.

As a result, if all the Directors had a relation to the Council the Board could cease to become functional. Therefore it is recommended that the board includes Directors who are independent from the Council.

On appointment of the Directors, it is important for them to fully understand their requirements and duties as a Director and be provided with training and guidance on how to handle any potential conflict of interest.

Size of the Trust Board

There is no defined guidance for the board size. It is considered important to have the correct balance between having enough appropriately skilled board members able to engage in

meaningful debate, while not having overly large, unwieldy and inefficient board. There is no set pre-specified number of directors required and the number does not need be fixed for all time if experience shows that more or fewer directors would be preferable.

Board Structure Paper

OSCR guidance

The Scottish charity regulator, OSCR, has specific guidelines on the type of individuals who should compose the board. The key requirements from this guidance are: the majority of the board members should be independent of the Council; and, governance arrangements and board structure must allow the board members to fulfil their duties to the charity.

It is likely that these guidelines will be required to be complied when applying for charitable status. Where the board comprises of seven members, it is recommended that the board has four independent directors to ensure an independent majority.

Other governance routes

Board representation is not the only way in which monitoring and governance can be achieved. An additional governance route for the Council relates to the appointment of observers to the board. The observers would be able to attend and speak at board meetings, but would not take part in decision making. This allows for additional governance and monitoring at board level while, crucially, maintains the integrity of the independent board.

Other potential governance routes could be: the board being required to submit written reports to the Council on certain aspects of the company, for example the performance; and the legal agreement between the Council and the company would set out such requirement

Council officers as Directors

In the creation of the new board, the Council would be free to nominate an officer to be a director, however, this is not commonly considered to be appropriate. Audit Scotland has concerns that the ongoing working activities of a Council officer impinge on clear roles and responsibilities between Council and board duties. Accordingly, in order to monitor and examine the performance of the company, council officers can take an observer role on the board.

Initial recommendation

Commonly, the following recommendations are applicable when determining the board structure:

- ▶ A minority of Elected Members of the Council to be nominated to the board;
- ▶ the Elected Members nominated are not those with a scrutiny and governance role from the Council side, and so are not, for example, members of the committee to which the company reports;
- ▶ a recruitment process to be conducted to identify a majority of independent candidates to fill the remainder of the posts on the board, with the correct mix of skills. A potential candidate here may be a Trade Union representative;
- ▶ A limited number of board observers who are Council officers;

- ▶ a detailed conflicts policy to be developed and embedded in the governance arrangements;
- ▶ training on board duties, including conflict issues to be provided, in due course, to the board.

Appendix C Illustrative Board Member Skills Matrix

Table 25 – Illustrative Board Member Skills Matrix

Board Member*	Skill		Behavioural				Governance				Technical				Industry				Comments
	Leadership	Communication	Previous Director experience	Community involvement	Strategic planning	Financial	Legal	HR	Comms / marketing	support for mission	fundraising	public policy	experience in sport / leisure / culture						
1. Elected Member																			
2. Elected Member																			
3. Elected Member/Independent Member																			
4. Independent Member																			
5. Independent Member																			
6. Independent Member																			
7. Independent Member																			

Scoring

1	Low
2	Limited
3	Average
4	Strong
5	Very Strong

*demographic mix: gender, age, ethnicity, demographic representative of local area

Source: EY

Appendix D Financial Case Assumptions

The financial position is based on information from the following financial summarises:

- ▶ Sport and Leisure Management
- ▶ Sport and Leisure client
- ▶ Library
- ▶ Museum
- ▶ Macduff Aquarium
- ▶ Aberdeenshire Life
- ▶ Arts Development
- ▶ Grants Monitoring
- ▶ Community Centres

There are a number of assumptions we have adopted to arrive at the figures shown in the financial case:

- ▶ Macduff Aquarium is the only asset in visitor attraction included in this analysis.
- ▶ The following assets have not been included in this analysis:
 - Pitches (school and other)
 - ○ Externally run all-weather pitches
 - ○ Multi use games areas including
Tennis courts
 - ○ Bowling rinks
 - ○ Externally run sports centres
- ▶ Adjustments have not been made for non-cash items. It was confirmed by Aberdeenshire Council that these costs have already been removed from the base financial position.

Appendix E NDR and VAT Information and assumptions

NDR and VAT implications for alternate delivery models

Our Financial Case has modelled the NDR and VAT implications for the Charitable Trust – due to its status as the preferred option within the Economic Case. However, we have also provided further commentary on the likely NDR and VAT positions for other five options explored in the options appraisal process. The following table provides a summary of this position.

Table 26 - Summary of NDR and VAT implications

Option	VAT Position	NDR Position
Status quo	Existing VAT recovery through the Council's s.33 VAT Act 1994 status.	Ongoing NDR liabilities
Enhanced status quo/DSO	Existing VAT recovery through the Council's s.33 VAT Act 1994 status.	Ongoing NDR liabilities
Outsource to a private sector operator	Depends on structure and whether the cultural and sporting exemptions are met (see below). Savings are only available where the entity is a registered charity for NDR and eligible body for VAT exemptions.	
Establish a private public partnership	Depends on structure and whether the cultural and sporting exemptions are met (see below). Savings are only available where the entity is a registered charity for NDR and eligible body for VAT exemptions.	
Transfer to a new wholly owned charitable subsidiary	Loss of s.33 VAT status. Future VAT savings will be based on the use of cultural and sporting exemptions (as detailed below) allowing the charitable entity to retain 20% additional income. Conversely, there will be irrecoverable VAT on expenditure. However, typically savings outweigh the irrecoverable VAT.	NDR savings available at a maximum of 95%

Source: EY Analysis

Further commentary on the NDR criteria, the cultural exemptions and sporting exemptions are contained in Appendix E. However, we have expanded on these positions below.

VAT implications on status quo option

The status quo benefits from existing VAT recovery through the Council's section 33 VAT Act 1994 status. This option also means that the Council will be responsible for its ongoing NDR liabilities.

We are aware that a number of local authorities have approached HMRC with arguments that a similar VAT treatment to that given to a Charitable Trust structure should also be available to the current in-house model of service provision. Should these arguments be successful it would allow local authorities to adopt the same VAT treatment as a Charitable Trust structure. However, there could also be potentially significant partial exemption implications that would need to be managed especially around capital expenditure.

HMRC do not accept the arguments put forward by the local authorities. The arguments are currently subject to ongoing litigation at a First Tier Tribunal. A decision on the lead case on the exemption argument is still to be made. It is possible that HMRC would appeal any successful decision on the part of the local authorities and the litigation would be ongoing for a number of years.

There is, therefore, no certainty over whether the local authorities' arguments will succeed and HMRC is likely to appeal the decision if it was successful. To place reliance on a successful litigation process to achieve a VAT benefit is a higher risk option than the Trust structure. Based on these risks and uncertainties we do not believe it would be prudent to allocate the VAT benefit to the in house provision structure as it is by no means achievable at this stage.

VAT implications on enhanced status quo/DSO option

The underlying legal and structural position of the enhanced status quo/DSO does not differ from the status quo. For this reason it will benefit from existing VAT recovery through the Council's section 33 VAT Act 1994 status. This option also means that the Council will be responsible for its ongoing NDR liabilities.

VAT implications on outsourcing to the Private Sector or establishing a PPP

For both options 3 and 4, outsourcing to a Private Sector Operator and establishing a Private Public Partnership, the VAT and NDR positions cannot be determined. Further clarity would be needed on the structure of the organisation. Savings are only available where the entity is a registered charity for NDR and eligible body for VAT cultural and sporting exemptions.

NDR and VAT Assumptions

NDR Criteria

NNDR relief is one of the biggest savings where the Council transfers leisure and cultural services into a charitable entity.

However, relief is only available where the entity is a registered charitable body with OSCR. A registered charity receives 80% mandatory relief from NDR and the Council may then award a further 20% discretionary relief to a charity that occupies premises wholly or mainly for charitable purposes.

It is the Council's responsibility to fund 25% of the 20% discretionary relief and thus we reduce 100% saving to 95% to reflect this.

Cultural Exemption

In order to be treated as an eligible body in relation to the cultural exemption the entity must satisfy the following conditions:

- ▶ is precluded from distributing, and does not distribute, any profit it makes;
- ▶ applies any profits made from supplies of cultural services to the continuance or improvement of the facilities made available by means of the supplies; and
- ▶ is governed and administered on a voluntary basis by persons who have no direct or indirect financial interest in its activities.

Sporting Exemption

In order to be treated as an eligible non-profit-making entity for the purposes of the sporting exemption the entity must:

- ▶ have in its constitution restriction on the distribution of profits; and
- ▶ not be subject to either commercial influence or be part of a wider commercial undertaking.

Scenario 1 assumptions

- ▶ The charitable entity will meet the relevant conditions to obtain relief from National Non-Domestic Rates at 95%
- ▶ The charitable entity will meet the relevant conditions to exempt sporting services from VAT:
 - The entity must have in its constitution a restriction on the distribution of profits; and
 - not be subject to either commercial influence or be part of a wider commercial undertaking.

- ▶ An input VAT restriction has been applied to each of the service lines which results in the irrecoverable VAT figure. This has been estimated based upon our experience with similar Trusts and their partial exemption position which amounts to 47% VAT recovery in the Trust.
- ▶ Please note that we have assumed that the Council will provide back office support services for no charge. As a proxy for this, we have removed all administration costs. We can improve this position by also ensuring that Council provides repair and maintenance and utilities for no charge but this is subject to greater challenge by HMRC.
- ▶ We have excluded £5,260,000 of income from the Council's "sports and leisure trading account" as this is accounted for by £5,260,000 of expenditure in the Council's "sports and leisure client account".
- ▶ We have analysed the Aberdeenshire Life cost centre code into two parts as we understand that this is both the delivery of sporting services (specifically cost centres Focus Sports Events and Focus Sports Badminton) and sports development services (the remainder of the cost centres). Please note that where there is any delivery of sports within the remaining cost centres, this will impact upon the VAT recovery position. Furthermore, there may be a small additional irrecoverable VAT cost in relation to the development services and this will not be quantifiable until a full model is undertaken.

Scenario 2 assumptions

- ▶ The charitable entity will meet the relevant conditions to obtain relief from National Non-Domestic Rates at 95%
- ▶ The charitable entity will meet the relevant conditions to exempt sporting services from VAT:
 - The entity must have in its constitution a restriction on the distribution of profits; and
 - not be subject to either commercial influence or be part of a wider commercial undertaking.
- ▶ An input VAT restriction has been applied to each of the service lines which results in the irrecoverable VAT figure. This has been estimated based upon our experience with similar Trusts and their partial exemption position which amounts to 47% VAT recovery in the Trust.
- ▶ We have assumed that Trust will retain responsibility for all administration costs and support services. Where the Council provides these, we have assumed that these will be provided for a charge.
- ▶ We have excluded £5,260,000 of income from the sports and leisure trading account as this appears to be cancelled out by £5,260,000 of expenditure in the sports and leisure client account.
- ▶ We have analysed the Aberdeenshire Life cost centre code into two parts as we understand that this is both the delivery of sporting services (specifically cost centres Focus Sports Events and Focus Sports Badminton) and sports development services (the remainder of the cost centres). Please note that where there is any delivery of sports within the remaining cost centres, this will impact upon the VAT recovery position. Furthermore, there may be a small additional irrecoverable VAT cost in relation to the development services and this will not be quantifiable until a full model is undertaken.

Appendix F Risk Register

Figure 6 - Risk Register

ESCALO Project Risk Register											
Risk ID	Date Opened	Risk Description	Risk Type	Date Last Assessed	Probability	Impact	Rating	Mitigating Actions	Status	Associated Issues	PB/PT
ALO001	19-	Feb-15 Project does not meet agreed time scale	Physical	22-Sep-16		1	4	4 PID Project Plan Project Manager overview Project Board Governance & Reporting	New		PB
AL002	19-	Feb-15 Project is not adequately staffed	Personnel	22-Sep-16		1	4	4 PID Project Plan Project Manager overview Project Board Governance & Reporting	New		PB
AL003	19-	Feb-15 Project fails to be completed within agreed budget	Financial	22-Sep-16		1	4	4 PID Project Plan Project Manager overview Budget Monitoring Project Board Governance & Reporting	New		PB
AL004	19-	Feb-15 Staff do not "buy in" to project objectives	Personnel	22-Sep-16		3	3	9 Staff Communication & Engagement Plan Trade Union Consultation Staff Focus Groups	New		PB
AL005	19-	Feb-15 Project lacks the support of all elected members	Political	22-Sep-16		2	4	8 Communication & Engagement Localisation of benefits	New		PB
AL006	19-	Feb-15 Lack of focused implementation strategy	Contractual	22-Sep-16		1	3	3 Project Plan Asset Transfer Strategy Staff Transfer Strategy	New		PT
AL007	19-	Feb-15 Trent fails to deliver required staff information	Personnel	22-Sep-16		4	4		New		PB
AL008	19-	Feb-15 Clear measures of Project success have not been identified	Economic	22-Sep-16		1	1	1 PID	New		PB
AL009	19-	Feb-15 Failure to obtain Charitable Status and Rates Relief for ALO	Legal/Legislative	22-Sep-16		1	4	4 ALO Governance Structure Ensuring Trustees are identified External Legal Advice	New		PB
AL010	19-	Feb-15 Tension between OSCR & Procurement rules leads to a legal challenge	Legal/Legislative	22-Sep-16		2	4	8 External Legal Advice	New		PB
AL011	19-	Feb-15 Loss of Rates Relief	Legal/Legislative	22-Sep-16		1	4	4 No mitigants identified	New		PB

AL012	19-Feb-14	Lack of, or poor communication to stakeholders	Personnel	22-Sep-16		2	3	6	Communication Strategy	New		PT
AL013	19-	Feb-15 Transfer of Properties/Conveyancing issues have adverse effect on realisable benefits	Legal/Legislative	22-Sep-16		3	4	12	Examination of Titles	New		PT
AL014	19-	Feb-15 Failure to realise related projects' benefits	Financial	22-Sep-16		1	4	4	PID Project Plan Project Manager overview Project Board Governance & Reporting	New		PT
AL015	19-	Feb-15 Failure to effectively manage Project Team	Personnel	22-Sep-16		2	2	4	Project Plan Project Manager overview Project Board Governance & Reporting	New		PB
AL021	19-	Sep-16 Hard FM contract may not align with OSCR guidelines, rules and policies	Legal/Legislative	22-Sep-16		3	3	3		New		PB
AL022	19-	Sep-16 The Trust fails to deliver/implement Council priorities	Contractual	22-Sep-16		2	2	2		New		PB
AL023	19-	Sep-16 Currently have a deficit in trading account. Transferring to a Trust with a deficit may not be sustainable	Financial	22-Sep-16		3	4	12		New		PB
AL024	19-	Sep-16 Loss of access to facilities	Economic	22-Sep-16		1	4	4		New		PB
AL025	19-Sep-16	Council has re-newed the photo copier agreement. Transferring photo copiers to Trust maybe a breach of this contract	contractual	22-Sep-16		3	3	9		New		PB

Source Aberdeenshire Council:

