

North Tyneside Council

Report to Cabinet

Date: 14 November 2016

ITEM 6(e)

Title: Tyne & Wear
Archives and Museums:
Joint Agreement and New
Governance
Arrangements

Portfolio(s): Leisure, Culture and
Tourism

Cabinet Member(s): Councillor Eddie
Darke

Report from Service

Area: Environment, Housing and Leisure

Responsible Officer: Phil Scott, Head of Environment,
Housing and Leisure (Tel: (0191)6435295)

Wards affected: All

PART 1

1.1 Executive Summary:

The report outlines the steps required to review the existing governance of Tyne & Wear Archives and Museums (TWAM), resulting in the formation of a Strategic Board to replace the existing Tyne & Wear Archives and Museums Joint Committee (TWAM Joint Committee) from 1 June 2017, and the establishment of a wholly owned Trading Company. These changes will position the organisation to secure substantial long term investment from Arts Council England in 2018-22 and improve the long term delivery of the service.

The proposed new trading company would be wholly-owned by TWAM partner authorities and Newcastle University, which is responsible for Great North Museum: Hancock and the Hatton Gallery and their collections, all of which are managed by TWAM.

TWAM is now at a pivotal point in its history. Following the withdrawal of Sunderland City Council from the Joint Agreement in 2013 and challenging reductions in investment from other local authority partners, TWAM has needed to generate more income from other sources to balance its budget. The report summarises the benefits of continued collaboration and commitment from existing local authority partners.

The purpose of this report is to approve new governance arrangements for TWAM.

Each of the local authority partners will be considering the same recommendations at Cabinet discussions this month.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) approve the adoption of a renewed Tyne & Wear Archives and Museums Joint Agreement for the 2016/17 municipal year;
- (2) approve the dissolution of the Tyne & Wear Archives and Museums Joint Committee on 31 May 2017;
- (3) approve the formation of a Strategic Board to replace the Joint Committee from 1 June 2017;
- (4) approve the formation of a wholly owned Trading Company together with TWAM partner authorities and Newcastle University;
- (5) delegate authority to the Head of Environment, Housing and Leisure, in consultation with the Cabinet Member for Leisure, Culture and Tourism, the Head of Law and Governance and the Head of Finance, to negotiate and agree the final terms to implement the recommendations of the review including in particular the arrangements for determining the membership of the proposed Strategic Board; and
- (6) delegate authority to the Head of Law and Governance to enter into all relevant legal agreements in pursuance of the above.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 12 September 2016.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2016/19 Our North Tyneside Plan:

Our places will be great places to live in and will attract others to visit or work here - See more at: <http://my.northtyneside.gov.uk/category/471/our-places#sthash.kbb61CbB.dpuf>

1.5 Information:

Introduction

- 1.5.1 Financial pressures over recent years have required TWAM to generate additional earned income to balance its budgets and maintain the quality of its service.
- 1.5.2 TWAM has responded to this challenge with considerable success. However, the organisation is now at a pivotal point in its history. If it is to meet the challenges it is likely to face in future, and is to maintain the confidence and support of Arts Council England (ACE), its single biggest funder, it needs:
 - to make radical changes to its governance; and
 - to effect the transition from the current to the proposed new arrangements in a measured, coordinated and timely manner.
- 1.5.3 The timetable for change is determined in part by the need to increase self-generated income as soon as possible. However, TWAM also needs to reassure ACE that the organisation has a secure, long-term and planned future, in preparation for the submission of an application to ACE for grant aid to cover the period 2018-22.

- 1.5.4 That application is likely to be for a sum in the region of £16m. The window for applications opens in October 2016. The deadline for submissions is February 2017. ACE will announce its funding decisions in the late summer/early autumn of 2017.
- 1.5.6 In preparation for a successful bid, it is necessary:
- to secure the agreement of the four local authority stakeholders to the proposed changes (October 2016);
 - to agree a renewed Joint Agreement, which lays out the roles, rights and responsibilities of each authority in the Joint Committee, and the way in which they operate together, and which covers the period 1 April 2016 – 31 May 2017 (October 2016);
 - to establish a new Strategic Board, which includes representatives of the four existing stakeholders but also welcomes representation from Newcastle University and the private sector;
 - to identify and appoint an independent Chair and Board members (between November 2016 and April 2017);
 - to establish a new, wholly-owned, Trading Company, which allows TWAM to diversify the sources, and increase the volume, of its earned income (by June 2017);
 - to dissolve the Joint Committee on 31 May 2017, the end of the municipal year;
 - to transfer responsibility for governing the organisation to the new Strategic Board on 1 June 2017.
- 1.5.7 All the proposed changes will then be in place, and operational, by the time ACE makes its funding decisions and announcements.

Background

- 1.5.8 Following the withdrawal of Sunderland City Council from the TWAM Joint Committee on 1 April 2013, the four remaining local authorities considered it expedient to retain a Joint Service and drew up a new one-year Agreement which reflected the change and allowed them sufficient time to assess the implications of their new circumstances. That Agreement expired at the end of March 2014. It was renewed for a further two years and expired at the end of March 2016.
- 1.5.9 In the absence of a signed Agreement covering the first half of this financial year, the partners have continued to operate under the terms of the previous agreement. A further agreement is now required for the period 1 April 2016 – 31 May 2017, after which it is proposed that the Joint Committee should be dissolved, following transfer of its responsibilities to a new Strategic Board and Trading Company.

The need for new Governance Arrangements

- 1.5.10 Following the withdrawal of Sunderland City Council, the TWAM Joint Committee decided that a review of its governance would be beneficial. It commissioned an external legal adviser to lead the review.
- 1.5.11 The Leaders and Elected Mayor and Chief Executives of all four authorities have indicated their support for the recommendation made in the external legal advice that a new governing body, which includes external enterprise expertise, and a trading company, should be created.
- 1.5.12 It is proposed that a new Strategic Board, on which local authority stakeholders will continue to be represented but which also admits membership from Newcastle University and the private sector, should be established to take up its responsibilities at the start of

the new municipal year. A Trading Company, which enables the organisation to take advantage of the new commercial expertise on the Board, should be formed at the same time. A Shadow Board would operate alongside the TWAM Joint Committee between 1 April and 31 May 2017.

Strategic Board

1.5.13 The terms of reference and proposals for membership for the Board will be based on the following 'heads of terms':

- the purpose of the board is to provide scrutiny and leadership, democratic accountability, and enterprise support and challenge;
- the board should include at least one representative from each partner local authority and this should be a Cabinet Member in that authority;
- the Board should provide for representation by Newcastle University, now TWAM's second largest funding client;
- as at present, ACE will require observer status;
- it is suggested that there should be 4-6 independent members who will each serve for a fixed term;
- all members of the Strategic Board should act within a 'Nolan' type framework, representing the best interests of TWAM and no outside interest.
- The Chair will be independent and recruited to a specific job description

1.5.14 Discussion at the TWAM Joint Committee suggested that consideration should be given to the involvement of non-Cabinet Members. This proposal has yet to be formally adopted or agreed but could be achieved if two non-Cabinet Members (in total) joined the board on a rotating basis by authority.

Executive decisions

1.5.15 The legal advice received noted that there are some powers and rights that elected members may wish to reserve to themselves, particularly those which have significant financial implications for the constituent local authorities or a bearing on the use of assets. Such issues will be identified and reserved to the elected members on the Board.

Trading Company

1.5.16 The proposed new trading company would be wholly-owned by TWAM partner authorities and Newcastle University, which is responsible for Great North Museum: Hancock and the Hatton Gallery and their collections, all of which are managed by TWAM. A shareholders' agreement will be required.

1.5.17 A business plan showing the trading company's viability has been completed. TWAM, Newcastle City Council's Legal Services Department and the external legal adviser have developed a framework for the establishment of the company.

1.5.18 It is proposed that the company's non-executive board would consist of:

- Director of TWAM
- Head of Finance, TWAM
- Representative(s) of Strategic Board – possibly 1 elected, 1 independent
- Senior external retail expert
- 1 or more other business experts

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

To agree the report thus giving the go-ahead for the establishment of new governance arrangements for TWAM;

Option 2

Not to agree the report and jeopardise the opportunity for TWAM to bid for additional funding.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

The last Joint Agreement has expired. A renewed Agreement, which will run until 31 May 2017, is required. New governance arrangements, which will facilitate greater entrepreneurialism and increased self-reliance, are proposed and will take effect from 1 June 2017.

Approval will confirm for ACE that TWAM has appropriate governance arrangements in place for the period 2018-22 and will demonstrate positive change as TWAM applies for grant aid of up to £16m.

1.8 Appendices:

None

1.9 Contact officers:

Steve Bishop, Senior Manager, Cultural Services, tel (0191) 643 7410

Chris Bishop, Arts, Museums and Heritage Manager, Cultural Services, tel (0191) 643 7413

Alison Campbell, Senior Business Partner, tel. (0191) 643 7038

1.10 Background information:

The following background papers have been used in the compilation of this report and are available at the office of the author:

TWAM Governance Review (Bond Dickinson), October 2014

Joint Agreement in relation to Archives & Museums, (2014 - 2016)

Trading Company Business Plan (Ryecroft Glenton), September 2015

ACE Funding Agreements 2015-2018, March 2015

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

As currently each authority will continue to contribute to its own direct costs and existing arrangements will apply to core costs. There should be no additional costs for the four constituent local authorities as a result of the governance arrangements.

Future funding from Arts Council England in particular is likely to be made conditional on the continued collaboration of all four authorities, on written evidence of strong governance arrangements for the future and on the enhancement of TWAM's self-reliance and resilience.

The governance arrangements should allow TWAM the flexibility to generate additional income from the trading company. None of the costs of setting up the new trading company should fall to the Authority. The proposed new trading company would be wholly-owned by TWAM partner authorities and Newcastle University, which is responsible for Great North Museum: Hancock and the Hatton Gallery and their collections, all of which are managed by TWAM. A shareholders' agreement will be required.

A business plan showing the trading company's viability was completed in September 2015 by Ryecroft Glenton. TWAM, Newcastle City Council's Legal Services Department and the external legal advisers have developed a framework for the establishment of the company. In the event of a failure by the trading arm the liability of the Authority as stakeholder is limited to the value of its £1 share.

2.2 Legal

The Business Plan relating to the formation of a trading subsidiary and the legal advice received by the TWAM Joint Committee in relation to the proposals contained in this report have been reviewed. The Authority has the power to create the proposed Strategic Board and the Trading Company. The Localism Act 2011 provides where the Authority wishes to undertake commercial activities that this must be carried out through a trading company. The proposed Trading Company is consistent with this requirement.

The Authority will be represented in the Trading Company as a shareholder and will have decision making powers, this will include appointment of directors who will carry out the day to day running of the Trading Company.

Any profits made in the Trading Company will be paid to the shareholders as dividends.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

TWAM Joint Committee

Tyne and Wear Leaders and Elected Mayor

Cabinet Member Leisure, Culture and Tourism

2.3.2 External Consultation/Engagement

There are no public consultation requirements relating to this report.

2.4 Human rights

There are no direct Human Rights Act implications arising from the report.

2.5 Equalities and diversity

TWAM is required to operate an equalities policy consistent with the requirement of its local authority stakeholders and as a requirement of Arts Council England funding.

2.6 Risk management

There are two principal risks to TWAM associated with the proposals in this report. These will come in 2017/8 and the years that follow:

1. if any of the four constituent authorities is unable to maintain its financial commitment. This would jeopardise the ACE funding which supports the services. Mitigation is provided by the strong engagement of all partners.
2. if TWAM does not achieve National Portfolio Organisation funding for the period 2018-22. The measures included in this report provide significant mitigation against this risk.

2.7 Crime and disorder

There are no crime and disorder issues arising from the report.

2.8 Environment and sustainability

There are no environment or sustainability issues arising directly from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive
- Head(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy