

From: **Mike Hill, Cabinet Member for Community Services**
Barbara Cooper, Corporate Director Growth, Environment and Transport

To: **Cabinet – 1st June 2015**

Decision No: **15/00047**

Subject: **Decision on Proposed model of delivery for Library, Registration and Archive services**

Classification: **Unrestricted**

Past Pathway of Paper: **Growth, Economic Development and Communities Cabinet Committee – 20th May 2015**
Commissioning Advisory Board – 20th May 2015

Electoral Division: **All**

Summary:

This report highlights the findings of the recent consultation and parallel workstreams into a proposed delivery model of a charitable trust for the Libraries, Registration and Archives (LRA) service and makes recommendation for the way forward.

Recommendation(s):

Cabinet is asked to agree;

- a) to retain the service in-house until such time as the Registration Service can be externalised and form part of an integrated Libraries, Registration & Archives trust. At that time a new decision would be required; and
- b) that in parallel the in-house service will be internally commissioned against an agreed specification and deliver the required Medium Term Financial Plan (MTFP) savings.
- c) that KCC will push for the necessary legislative change which will enable the full benefits of an integrated LRA service in an externalised model to be realised.

1. Introduction

1.1. The Libraries, Registration and Archives service (“the LRA service”) was selected as one of the phase one reviews of the Facing the Challenge Transformation Programme. On the 12th January 2015 public consultation commenced on a preferred option for the establishment of a Charitable Trust to deliver the LRA service (“The Trust Model”).

- 1.2. During the consultation period parallel workstreams were undertaken relating to the governance model, property, financial and legal implications, HR and equality impacts of the proposal as well as starting to draft a service specification. Discussions with the General Register Office (GRO) the statutory regulator for Registration services were also progressed.
- 1.3. This report provides detailed results from the consultation exercise. It also provides an update on recent discussions with the GRO, the outcome of which has led to the proposal to agree to the principle of a trust model but implement when the legislative framework allows the full LRA service to transfer to a Trust. This later transfer would be subject to a future decision. Meanwhile, the in house service will be internally commissioned to transform and to deliver an outcomes focused service governed by a specification and the MTFP savings.

2. Background information

- 2.1. The LRA service is primarily a statutory and highly valued public service delivered in Kent through a network of 99 libraries, 6 Register Offices, 11 mobile libraries, an archive centre containing over 14km shelving of historic archive documents and the stock distribution and support function building at Quarrywood, the information service comprising the public 'Ask a Kent Librarian' service, the KCC member information point and the 24 hour accessible online services. The LRA service also delivers the record management service on behalf of KCC. The service employs approximately 600 permanent members of staff.
- 2.2. In performance terms, over the last financial year the service had 5,214,271 library issues, 117,354 e-book issues, 179,261 active borrowers, conducted 17,947 initial birth registrations, 14,326 initial death registrations, 5,357 ceremonies, issued 15,285 copy certificates, 11,906 archive documents accessed from our search room and 8,229 archive documents accessed digitally, and the website had 752,965 web hits.
- 2.3. In 2013, the Registration Service was integrated into the Library and Archive service. This is the first and only such model in the UK. This has achieved significant annual financial efficiencies of £600k as well as an improved and integrated service for Kent residents and businesses increasing the number of locations to register births and deaths from 6 to 28.
- 2.4. The service has a strong record of delivering savings and transformation and has achieved approximately £6m savings since 2007. This has been through a variety of initiatives including the introduction of self-service in libraries and improving processes such as electronic ordering of library stock from suppliers.
- 2.5. KCC's Medium Term Financial Plan includes savings of £3.27m for the period 2014-2017 for the LRA service. Of this, £1.32m has already been achieved

through a recent management review, increase in the Registration income and a review of the Archive service. The balance of £1.92m is to be achieved through further service transformation irrespective of the delivery model.

2.6. The Facing the Challenge Transformation Team, supported by service managers and other professional experts, reviewed a wide range of options for the future delivery of this service including:

- The charitable trust
- Continuation of the current in-house model but with further transformation
- Outsource to an external provider
- Joint venture with an external provider.

2.7. The charitable trust was selected as the preferred model for securing the future of the LRA service. In researching potential options in-depth discussions took place with a number of different councils and various groups. Following this review a set of criteria were agreed against which to evaluate the options for the future delivery of the LRA service. The options appraisal process was set out in a document that was available during the consultation.

2.8. The objectives underpinning the transformation of the service include;

- To ensure KCC continues to meet its statutory obligation in relation to LRA Services.
- To ensure the key role LRA services play in local communities continues to be safeguarded and can be enhanced with local communities being meaningfully engaged leading in turn, to innovation and creative solutions.
- To deliver a sustainable service for KCC that will be customer focused, provide efficiencies and opportunities for growth in a rapidly changing environment.

2.9. The preferred model was endorsed by the Growth, Economic Development and Communities Cabinet Committee in September 2014 with the recommendation that the proposal should be tested through public consultation.

3. Consultation

3.1. Public consultation commenced on 12th January and ran for twelve weeks concluding on 8th April 2015. Residents of Kent were asked to comment on a) the proposed mission for the service and b) the proposed trust proposal.

3.2. All the options that were considered as part of the review were included in the public consultation.

3.3. During the consultation period access to the relevant documents was made available via the kent.gov website as well as all LRA service points. Anyone

submitting a return could send these to us online or via a Freepost address. In addition 27 public roadshows were run across the county in a variety of locations including libraries and shopping centres where customers could come and discuss the proposals with LRA service managers. A set of 'Frequently Asked Questions' and answers was provided and updated during the consultation. A copy of the consultation document, the 'Frequently Asked Questions' and a copy of the locations of the roadshows can be found at www.kent.gov.uk/lraconsultation

- 3.4. Throughout the consultation, care was taken to give residents an opportunity to see and respond to the consultation materials.
- 3.5. The consultation was managed by an external company - Lake Market Research - and their full report into the findings is included in Appendix A which includes a full breakdown of promotional activity that took place.
- 3.6. The consultation received a good response with 2,143 responses received, which included 1,969 from individuals and 30 from public sector partners (including parish councils), and 59 from voluntary and community groups. The overwhelming majority of responses were from existing users with 92% of responses from those who had used the service in the last month. There were no identified responses from any alternative providers.

4. **Summary results of the consultation**

- 4.1. The proposed mission statement proposed for the service going forward was; *"We have a statutory duty to provide most of our services. However, our mission is to go beyond this duty. We strive to continually affect people's lives in a positive way and deliver services for every community in Kent, with some specially targeted to help those who need it most. We see our mission as: to continue to support local people throughout their lives, to adapt, and improve library, registration and archive services in Kent, so that we continue to meet the changing needs of local communities, to make sure we are as efficient and cost effective as possible, where appropriate, use the latest technology to benefit Kent's resident's. This mission will continue to be at the heart of Library, Registration and Archive services, whatever delivery model we choose for the future".*
- 4.2. With regard to the mission statement, 52% of people strongly agreed or agreed with the proposed mission statement, 30% strongly disagreed or disagreed with 14% neither agreeing nor disagreeing.
- 4.3. On the key question of the proposal to establish a charitable trust 38.6% strongly agreed or agreed with the proposal and the freedom and flexibilities that could be provided by a trust model. Of those individuals who did agree with the proposal 60% felt this was the best option of the alternatives to protect and expand services 13% said that it would provide access to additional funding, 9% that it made sense/a sensible suggestion and 9% responded saying that it offered flexibility and the freedom to move forward.

- 4.4.14% of respondents neither agreed nor disagreed. Whilst 42.7% of respondents strongly disagreed or disagreed with the Trust proposal with the key concerns being accountability and the future role of KCC; decision making regarding changes to the service including closures; future funding and set up costs; use of volunteers particularly in regard to professional staff; and the quality and future of the archive service. Potential mitigations for each of these issues are examined in more detail in Appendix B.
- 4.5. Respondents were also asked to suggest anything that they would want the service to deliver that it does not currently. Of those who responded 21% wanted no additional service or wanted to guarantee the current high quality of services delivered. Other suggestions included having space for community activities, lectures, cafés, and other services and expanded IT. All options will be considered in shaping the future direction of the service whether in-house transformation or in an external trust.
- 4.6. A range of suggestions were put forward for how else the savings could be achieved. While 63% of consultees left this question blank of those who did respond 50% wanted the service to remain KCC run. A number of other alternatives were also put forward and these are examined in Appendix C.
- 4.7. The results represent a very balanced response. Respondents were very clear in their support for both the service and the staff but were quite evenly split between the proposed move to a Trust or retaining the service in house.
- 4.8. During the consultation period a public petition was submitted which collected 3,772 signatures and in accordance with KCC procedures was included and debated at the Growth, Economic Development and Communities Cabinet Committee on the 20th May 2015.
- 4.9. The petition called for KCC to; “Ensure that this integrated network of 99 libraries continues to be:
- free and open to all with current levels of local accessibility and opening hours maintained or improved;
 - run by professional librarians and appropriately remunerated staff – with volunteers providing additional support; and
 - democratically accountable to elected councillors (on operation and statutory matters) and bound by Freedom of Information.”

5. Registration Service Implications

- 5.1. We have had positive and engaged discussions with the GRO to explore new ways of working and a potential pilot approach to support our proposed model. Despite best efforts, and, on receipt of legal advice the GRO have had to conclude that Registration Services cannot be externalised without new primary legislation.

- 5.2. The GRO has acknowledged that the national legal framework surrounding the operation of the Registration Service is not 'fit for today' and can see merits in changes.
- 5.3. The integrated nature of the LRA service means the only way to progress to a trust model before legislative change would be to separate Registration from the Libraries & Archives service. The separation of the services would require a detailed staff restructure, staff consultation and create a period of instability while new structures are put in place. There would also be financial implications – see Section 7 for further detail.

6. Property Implications

- 6.1. The LRA property portfolio reflects a range of freehold and leasehold properties. A move to a trust will require specific lease arrangements for each of the 100+ properties from which the LRA service is delivered.
- 6.2. If the service is transferred to a Trust, then it is intended that all current library and archive properties will continue to be occupied by the Trust and used for delivery of the service. The Trust will need freedom to maximise the use of the asset, to make minor improvements/decoration to the properties and to be able to make changes that can improve the delivery of the service to customers as well as increase the income generating potential. For example the trust may want to change the use of part of the premises.
- 6.3. One of the benefits to the trust model is that the trust, subject to achieving charitable status would be eligible for mandatory relief on business rates (saving estimated at 650K) - for this they must be the rateable occupier and will require Leases or Underleases of the properties.
- 6.4. Preliminary work reviewing existing freehold and leasehold properties has commenced. However significant further work is required to confirm the lease arrangements and the opportunities to drive income generation.

7. Financial Implications

- 7.1. The table overleaf provides a summary of the financial projections for the proposed Trust model based on the separation of Registration Services from Libraries and Archives compared to an in-house transformation. This table allows for some projections for savings beyond the current MTFP and are not as yet confirmed.

Summary 2015-2021	2015 – 2021		2015 – 2021	
	Trust		In-House	
	£	£	£	£
Savings				
Savings delivered prior to Transfer to Trust	- 1,275,000		- 1,275,000	
Savings target for "future model" to deliver	- 3,149,707		- 3,149,707	
NNDR Saving - Charitable Status Achieved	- 650,000		-	
Savings on KCC Corporate Overheads	- 1,899,704		- 1,899,704	
Total Forecast Savings		- 6,974,411		-6,324,411
Pressures				
Staffing Costs -				
Registration Service Re-structure	480,179 ¹			
Price Pressures / Base Budget Adjustments	519,571		501,600	
On-going Pressures Trust Option	130,000			
Total Forecast Pressures		1,129,750		501,600
Forecast Net Savings		- 5,844,661		-5,822,811

1 Once legislation is passed this cost will not apply to the transfer of the whole service to a trust.

7.2. There will be implementation costs associated with a transfer to a trust model and these will be detailed in a future report at the time of decision.

7.3. A key aim of the transformation is to create a sustainable platform for the future of this service and to do this the service however delivered will need to explore opportunities for creating new revenue streams; cost savings alone will not bridge the financial gap.

7.4. As detailed in the consultation evaluation a number of ideas were put forward by members of the public for additional services that could generate income including merchandise and cafes. In addition, external consultants were commissioned to perform a desk based analysis of ways for a library and archive service to generate income based on activities of other UK and international authorities. Using a set of high-level assumptions which have been reviewed by KCC, revenue projections attached to those business opportunities may range from £0.4m to £0.8m. Before implementing any of these potential opportunities, a more detailed validation exercise to test and refine the assumptions as well as identifying start-up costs, operational costs

and feasibility of these options will be required. These opportunities can be explored whether the service is delivered in-house or through a trust model.

7.5. A key priority going forward will be to develop a more commercialised service model and ensure staff are equipped to deliver a strong customer focus and offer services that meet a changing customer need. The LRA service has already delivered efficiencies and through the work involved in moving to a trust has developed knowledge and skills that can be used in transforming LRA.

8. Implications and Proposed next steps

8.1. The consultation results have served to give the County Council confidence to proceed with the Trust model. While the potential benefits of the Trust remain the analysis of the costs and service impact associated with the separation of Registration Services provides sufficient grounds that to proceed to a Trust at this point in time would not be in the best financial interests of KCC.

8.2. It is therefore proposed to move forward with the proposed Trust model when the necessary legislative change has been enacted to allow the full benefits of a Trust model to be realised. We will continue to press the General Register Office to progress the required legislative changes as quickly as possible.

8.3. The In-house service will be internally commissioned and will continue to be transformed and will deliver the required level of savings as identified in the current MTFP. KCC is becoming a commissioning authority and in support of this approach a service specification has been developed for the LRA service and the in-house service will be commissioned to deliver against this. The specification will outline the outcomes required and the minimum standards of performance. It will also directly reflect the recently agreed KCC strategic commissioning outcomes framework. This will detail how the service will;

- Deliver KCC's statutory obligations and satisfy the needs of the people of Kent;
- listen to local communities and provide modern, innovative services and utilise new technology to provide a service centred on their needs;
- grow the business: evolving and adapting to meet new challenges and opportunities;
- inspire the people of Kent to enrich their lives through the services we provide;
- deliver the services as efficiently as possible maximising value for Kent residents; and
- continue to develop and maximise use of our network of welcoming spaces for local communities.

8.4. The service transformation work will continue. When the necessary legislative change is achieved that will allow the full integrated services to be transferred

to a trust, all information will be updated and presented for a full decision on whether a Trust model should then be implemented.

8.5. The In-house transformation will facilitate a move to a trust and will build on the stated objectives and benefits of the trust model namely:

Key Benefit of the proposal	How we will progress
Income generation and grant funding opportunities explored	The opportunities for income generation can be progressed regardless of the model.
Greater community involvement	The service will engage more with customers (potential and actual) and user groups. The results of the consultation will be used to focus services around the needs of the customer for now and the future.
Maximising potential of the assets	The service will continue to work with property to explore opportunities for greater asset collaboration as well as use of the buildings outside of service hours. The role of the library as a true community asset will continue to be explored with local communities.
Focus on outcomes for customers	The service specification will be finalised and will be tested with customer focus groups before being agreed. The service will then be commissioned internally to deliver to the specification and performance monitored and reported.

9. Legal implications

9.1. Detailed legal advice has been taken from external solicitors who have worked closely with Legal Services. There are key legal issues that need to be considered and set out below is a summary of the legal advice provided by Kent Legal Service and the external solicitors.

9.2. KCC must ensure that the preferred option for the LRA service as a whole enables KCC to meet its statutory and fiduciary duties within the context of the financial challenges and its need to balance its budgets for each service in the short to medium term.

9.3. The proposed type of contract for the services between KCC and the trust is a concession contract. This is a type of contract which transfers some or all trading (i.e. income) risk to the contractor/concessionaire. The income must not all be from KCC pursuant to the contract. If the contract with the trust is not a concession contract the law requires that KCC would need to engage in

an open procurement exercise - it should also be noted that the route of awarding a concession contract for a contract of this size without an open competition will not be available once further changes to the procurement legislation are implemented, probably in early 2016. There are also legal hurdles in expecting a trust to take support services from KCC and any decision on whether to externalise to a trust ought not to be made in reliance on this as a requirement.

9.4. The GRO has now confirmed that it has legal advice that under current legislation KCC is not able to externalise the Registration service. It is considered on the basis of this that Registration cannot therefore be externalised within KCC's planned timeframe.

9.5. Members must consider the Council's statutory duty to provide a comprehensive and efficient library service for anyone wishing to make use of it. In order for a library authority to form a rational view of whether a proposed level of service is comprehensive and efficient, it must consider the needs that the library service has to meet taking into account all relevant factors.

9.6. The Council is required to fulfil its public sector equality duty contained in the Equality Act 2010 when carrying out its statutory functions, including its library function. Members should also consider the Social Value Act 2012 in tandem with the Duty of Best Value contained within the Local Government Act 1999 and the Council's fiduciary duties.

9.7. The Council has carried out extensive consultation as identified in section 3 above. Members must consider all of the feedback gathered during the consultation and the community issues that emerge from the Equalities Impact Assessment. Members must take all comments and alternative proposals into consideration when making a decision, and consider them carefully and reasonably, but is not obliged to reject or follow any particular recommendation when taking a decision. KCC must ensure that the decision is based on a proper consideration of all relevant considerations and not irrelevant and/or improper considerations.

10. Equalities implications

10.1. As a result of the consultation the initial Equalities Impact Assessment (EIA) for the trust proposal has been updated and is included as Appendix D. The proposal to keep the service in-house raises no new equalities implications. Any future changes will be subject to separate Equalities Impact Assessments.

10.2. Members are asked to note the findings of this assessment.

11.Key Risks

11.1The key risks of awaiting for the necessary legislative changes and progressing in-house transformation include;

Risk	Potential mitigation
KCC in-house is unable to achieve the necessary level of savings	Through the work that has taken place a range of options will be pursued to achieve the necessary savings including the income generation opportunities identified.
The concessionary contract route is not possible when the proposal can be implemented.	If decide to progress the Trust model in the future it is likely that a competitive procurement process may have to be run.

12.Governance

12.1 The paper was taken to the Commissioning Advisory Board (CAB) on 20th May 2015 and debated within the context of the future role of CAB in regard to the recommendations contained in the paper. CAB also discussed and agreed a proposal that the LRA service specification and the process of monitoring the in-house service will be reviewed by CAB going forward.

12.2 The paper was also debated at the Growth Economic Development and Communities Cabinet Committee on 20th May 2015 and the recommendations were endorsed.

13.Recommendation(s):

Cabinet is asked to agree:

- a) To retain the service in-house until such time as the Registration Service can be externalised and form part of an integrated Libraries, Registration & Archives trust. At that time a new decision would be required
- b) That in parallel the in-house service will be internally commissioned against an agreed specification and deliver the required MTFP KCC will push for the necessary legislative change which will enable the full benefits of an integrated LRA service in an externalised model to be realised.
- c) That KCC will push for the necessary legislative change which will enable the full benefits of an integrated LRA service in an externalised model to be realised

14.Background Documents

Facing the Challenge: Phase 1 Service Review and Market Engagement Outturn Report – report to KCC Annual Meeting 15th May 2014 (see

<https://democracy.kent.gov.uk/documents/g5522/Public%20reports%20pack%2015th-May-2014%2010.00%20County%20Council.pdf?T=10>)

Minutes of the KCC Annual Meeting 15th May 2014 (see <https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=113&MId=5522>)

Report to GED cabinet Committee for 16th September 2014 meeting (see <https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=833&MId=5652&Ver=4>)

15.Contact details

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16.Appendix

Appendix A- Lake Market Research Report

Appendix B- Response to consultation: concerns & mitigation

Appendix C- Response to consultation: Alternative proposals analysis

Appendix D- Updated Equalities Impact Assessment