

EAST AYRSHIRE COUNCIL

CABINET – 4 MARCH 2009

SERVICE LEVEL AGREEMENT WITH COMMUNITY ASSOCIATIONS

Report by Executive Director of Educational and Social Services

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to seek Cabinet approval for a Service Level Agreement between East Ayrshire Council and Community Associations.

2. BACKGROUND

- 2.1 Community Associations currently have responsibility for letting arrangements in 25 Community Education Centres/Community Centres on behalf of East Ayrshire Council. This includes the programming of letting in Community Education Centres/Community Centres. The Community Association sets charges in each Centre. They retain the income from letting which can be used to invest in the Centre. The Council retains responsibility for the fabric of the building.
- 2.2 The purpose of this proposed Service Level Agreement is to establish clarity in this role for each Community Association. It is a framework to set out working arrangements which clarifies the respective roles and responsibilities of each Community Association and of East Ayrshire Council. It also seeks to regularise the above arrangements which have been in place for a number of years.

3. PROCESS

- 3.1 The development of the Service Level Agreement was the subject of detailed consultation with Community Associations across the Authority. Officers from the Community Learning and Development Service were supported, as appropriate, by legal services and finance and asset management staff.

4. SERVICE LEVEL AGREEMENT

- 4.1 The proposed Service Level Agreement is appended to this Cabinet paper for Member's consideration.

5. FINANCIAL IMPLICATIONS

- 5.1 Nil.

6. PERSONNEL IMPLICATIONS

- 6.1 Nil.

7. RISK MANAGEMENT IMPLICATIONS

- 7.1** The establishment of the Service Level Agreement seeks to minimise risk for both the Council and Community Associations by setting out clarity of roles and responsibilities.

8. COMMUNITY PLANNING IMPLICATIONS

- 8.1** Clear and explicit working agreements between the Council and Community Associations can help ensure that activities are consistent with the aims and objectives of the Community Plan.

9. LEGAL/POLICY IMPLICATIONS

- 9.1** The Service Level Agreement will ensure clear and explicit working agreements between the Council and Community Associations.
- 9.2** Although the Service Level Agreement will be fully reviewed every three years, revisions will be made as appropriate, if there are specific changes required based on legislative, policy or procedural requirements.

10. RECOMMENDATIONS

- 10.1** It is recommended that members of Cabinet:
- (i) approve the Service Level Agreement to be reviewed every three years and its consequent introduction; and
 - (ii) otherwise note the content of this report.

Graham Short,
Executive Director of Educational and Social Services

14 January 2009
KG/SR

BACKGROUND PAPER

NIL

Members wishing further information should contact Dot Grieve, Principal Officer (Community Learning & Development Service), Tel: 01563 578127.

IMPLEMENTATION OFFICER: KAY GILMOUR

<p style="text-align: center;">EAST AYRSHIRE COUNCIL DEPARTMENT OF EDUCATIONAL & SOCIAL SERVICES</p>
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SERVICE LEVEL AGREEMENT

Between:

East Ayrshire Council a local authority established under the Local Government etc (Scotland) Act 1994 and having its headquarters at London Road, Kilmarnock and

_____ Community Association.

an unincorporated body governed by its constitution and having its principal place of business at.....

The Service Level Agreement sets out working arrangements between the Council and the Community Association and Schedule One annexed hereto outlines their respective obligations. The Council and the Community Association agree as follows:-

1. Clarification of Terms

- **The Council** means
East Ayrshire Council
- **The Community Association** means
Membership of the Community Association shall be defined in each Community Association's Constitution.
- **The Management Committee** means
The committee elected annually at the AGM to conduct the business of the Community Association.
- **The Centre** means
Community Education Centres or Community facilities which are managed by the Community Association on behalf of the Council.

- **Annual Report** means
An annual report is a written document which gives details of the Community Association's activities for each financial year.
- **O.S.C.R.** means
The Office of the Scottish Charity Regulator

2. Policies and Procedures

The Community Association shall

- Adopt and follow a constitution, including standing orders. A mission statement for the Community Association should be encapsulated in the constitution. The constitution will be agreed by the Executive Director of Educational and Social Services or delegated officer and the Office of the Scottish Charities Regulator, if registration as a charity is being sought.
- Establish a Management Committee to ensure the Community Association meets its stated aims and objectives and operates within all legal requirements, including those specified in Schedule One paragraph 1(a).
- Submit annual returns requested by the Council.

These currently consist of –

- Community Association 1 form (*Annual Report of Activities*)
- Community Association 2 form (*Report on Annual General Meeting*)
- Community Association 3 form (*Contact and Support Agreement*)
- An Independently examined Receipts and Payments Account approved at the Community Association's Annual General Meeting.
- If registered as a charity, submit an annual return to OSCR and comply with any legal requirements in relation to annual reports as further detailed in Schedule One paragraph 1(b).
- Submit a copy of the Association's annual report to the Council, as further detailed in Schedule One paragraph 1(c).
- Meet the requirements of legislation e.g. equalities, child protection, discrimination and data protection and adhere to policies such as equal opportunities that have been adopted by the Council.
- In conjunction with advice from the Council, the Community Association will adopt its own policy in relation to letting, further detailed in Clause 3 hereof.
- Adopt a complaints procedure and a confidentiality procedure.
- Send representatives to any meetings or training opportunities when invited by the Council.
- Take cognisance of any advice given by the Council's representative (usually a Community Learning and Development Officer).

- Recognise that the Community Association's funds are to be used for the benefit of the community, including investment in the fabric and content of the Community Education Centre. Any investment in the fabric (internal or external) has to be made in conjunction with the Council's Finance and Asset Management Service.
- Where a Community Association deliver services in their own right or become employers, they must ensure that the appropriate policies and procedures are in place, including Health & Safety, personnel, insurance and children and vulnerable adult policies.
- Assist the Council to meet Freedom of Information requests in accordance with legislation.
- Apply any legislation that impacts the operation of the Centre or Community Association.

The Council Shall

- Provide a representative to all Annual General Meetings and endeavour to provide a representative to all Management Committee meetings and ad hoc meetings of office bearers of the Community Association.
- Advise and support the Community Association in the production of its annual report and OSCR return form. This will not include independent examination/audit of financial statements.
- Provide ongoing contact, support and advice to Community Associations. This includes training on issues relevant to Community Associations.

3. Letting

The Community Association Shall

- Approve individual applications for letting of premises to third parties.
- Adopt a letting policy and procedures, including a let form, that is not discriminatory and which takes account of equality of opportunity. This should comply with any legal requirements relating to the protection of children and vulnerable adults.
- Liaise with the Council in relation to the letting of the Centre. Timeously inform the Centre Supervisor of lets.
- Respond to any requests made by the Council for letting information.
- Review let charges annually, subject to the provision of Schedule One paragraph 2(b).
- Retain letting income but Community Association may require to reimburse the Council with either a portion or all of the income generated by lets which specifically incur increased costs to the Council i.e. overtime.

- Manage an annual allocation of overtime hours as intimated by the Council.

The Council Shall

- Take all reasonable steps to provide staffing for lets of the centre.
- Provide appropriate cleaning services.
- Set an annual allocation of overtime hours. Supply regular monitoring information to the Community Association.
- Issue accounts directly to lessees that incur regular additional overtime which is not included in the Community Associations overtime allocation.
- Assist the Community Associations to review their letting charges annually.
- Provide training to fire wardens.

4. Insurance

The Community Association Shall

- Consider and take professional advice regarding its own insurance cover and risk exposure as explained in Schedule One paragraph 3(a).
- Provide Public/Products Liability insurance when acting on their own behalf. It should be noted that as the Community Association has management responsibilities, Public/Products Liability Insurance should be arranged to cover its potential liabilities arising: e.g. when taking a let of the centre for an activity or event for which it is responsible, such as a concert, or when organising activities outwith the centre such as activities at a gala day. All in accordance with the provisions of Schedule One paragraph 3(b) and (c).
- Inform individual user groups or lessees of the centre that they are responsible for all of their particular insurance requirements. All in accordance with the provisions of Schedule One, paragraph 3(d) and (e).

The Council Shall

Provide solely for its own benefit and purposes.

- Employers Liability insurance.
- Public /Products Liability insurance, covering its liabilities as the property owner/landlord.
- Buildings Insurance (when it is the policy of the Council to do so).
- Contents Insurance covering all items included on the inventory for which the Council has an insurable interest.

5. Health and Safety

The Community Association Shall

- Comply with any advice or instruction from the Council concerning Health and Safety. The Council's Health and Safety procedures should be followed in addition to those developed by the Community Association and user groups.
- Ensure the health, safety and welfare of all of its own officers, members, and user groups, as detailed in Schedule One paragraph 4(b) and (c).
- Advise all lessees of their own Health and Safety responsibilities as indicated in the let form.

The Council Shall

- Comply with its own Health and Safety policies in relation to workers as detailed in the master Health and Safety file and departmental arrangements and shall comply with the provisions of Schedule One paragraph 4(c).
- Support the Community Association to comply with Health and Safety issues or requirements as detailed in the provisions of Schedule One paragraph 4(e) and (f).

6. Premises

The Community Association Shall

- Not enter into any contract relating to the structure or fabric of the building with an external contractor. All improvement works must be progressed through the Council's Finance and Asset Management Service. The Community Learning and Development Team Leader and Finance and Asset Management staff should be alerted to any proposals at as early a stage as possible.
- Invest a portion of funds accrued through letting fees to the upkeep and improvement of the centre.

The Council Shall

- Pay rates and other such charges in relation to the centre.
- Pay reasonable utility costs (e.g. gas, electricity) incurred by the operation of centre.
- Be responsible for the repair and maintenance of the internal and external fabric of the centre, and shall ensure the building is wind and water tight.
- In partnership with the Association, maintain the internal fabric of the building, taking into consideration both the Council's and Community Association's financial resources.
- If undertaking significant work in the centre, make every effort to give as much notice as possible in order to minimise any impact on lets.

7. **Finance**

The Community Association Shall

- Act responsibly in relation to the management and use of their funds, a portion of which will have been raised in lets.
- If considered appropriate, apply to the Office of the Scottish Charity Regulator to be registered as a charity and comply with all requirements including the submission of an annual return, as detailed in Schedule One paragraph 5(a).
- Ensure that proper records are kept by the Community Association for the current and previous 5 financial years and submit an independently examined Receipts and Payments Account to the Council annually.
- Provide appropriately scrutinised and examined annual accounts to the Office of the Scottish Charity Regulator, the Council and to members of the public if requested.
- Comply with any advice given by the Council including the Council's APB 27 circular where relevant.
- Ensure the Treasurer presents a summarised Receipts and Payments statement to each meeting of the Management Committee, which includes a statement of cash and bank balances. This should be verified by the meeting and recorded within the minute.

The Council Shall

- Support the Community Association management committee to keep proper records including financial records. Internal Audit shall have a right to access the Community Associations systems, records, documents and correspondence.
- Advise and support the Community Association in the production of its annual report and OSCR return form.
- Support the Community Association treasurer and provide appropriate training when required or requested.

8. **Reconciliation of Disagreements**

Any disagreements in the interpretation or implementation of this agreement will normally be resolved at a local level by representatives of the Community Association and the Council who will jointly be responsible for ensuring a mutually satisfactory resolution. If this is not possible to achieve, the Executive Director of Educational and Social Services will nominate a senior officer who will determine how this agreement is to be interpreted and implemented.

9. Review

The terms of this agreement will be reviewed on a three yearly basis or otherwise as required to take account of specific legislative requirements and/or the Council's policy or procedural requirements.

10. Termination

The Council reserves the right to terminate this agreement and resume full responsibility for the management of the Centre if a quorum cannot be formed at the Annual General Meeting; if the stated objectives of the Community Association are not being met; or if the Community Association is in breach of this Service level Agreement.

Authorise to sign for and on behalf of the East Ayrshire Council.

Signature

Name

Designation

Address

.....

Date

Witness Signature.....

Name.....

Designation.....

Address.....

.....

Authorise to sign for and on behalf of the Community Association.

Signature

Name

Designation

Address

.....

Date

Signature

Name

Designation

Address

.....

Date

SCHEDULE ONE

ADDITIONAL NOTES

1. Policies & Procedures

- a) Each committee must elect office bearers comprising a Chairperson (to represent the committee), a secretary (for administrative duties) and a treasurer (to oversee finances, monitor and prepare accounts).
- b) Since April 2006, all charities are required to submit their accounts to OSCR with their Annual Return form and (where issued) the supplementary Monitoring Return form. Submission will take place according to the charity's financial year end. Charities must submit accounts for the Accounting Period End Date and send them to OSCR at the same time as the completed Annual Return form.
- c) An 'Annual Report and Accounts' should be prepared after the end of the Community Association's financial year, in time to present at the AGM (annual general meeting). This will include a Receipts and Payments Account which has been independently examined. A representative of the committee should sign the report, preferably the chair. A copy should be submitted to the Council.

2. Letting

- a) The Council will not normally be charged for any activities, provided by Community Learning and Development.

3. Insurance

- a) A Community Association is a separate legal entity and as such owes a separate duty of care in law, distinct from that of the Council.
- b) The highest single injury award in the United Kingdom is currently circa £4.37m. It is important that the cover level is reviewed periodically and professional advice sought by the Community Association itself.
- c) Public/Products Liability should be subject to a minimum Indemnity limit of £5m any one event/unlimited in any one period of indemnity, other than for Products Liability losses where the indemnity limit applies in the aggregate to any one period of insurance.
- d) Each lessee owes a duty of care to each person participating in its organised events and lessees should hold Public/Products Liability insurance to protect their own interests.
- e) Any property/equipment brought into or left in the centre is done so at the owner's sole risk. The owners should provide their own insurance.

4. Health and Safety

- a) When acting as lessees or employers in their own rights, as a separate legal entity, the Community Association should have its own Health and Safety Policy, undertake all necessary risk assessments and comply with all Health and Safety legislation at all times.
- b) Ensure that all electrical equipment owned by the Community Association has a current PAT testing certificate.
- c) A copy of the Council's Health and Safety file is kept in the centre and can be accessed through the Centre Supervisor.
- d) All equipment brought into the centre should be checked by the Centre Supervisor to ensure that it has a current PAT testing certificate.
- e) Should any health and safety issue arise, the Community Association should immediately contact the Centre Supervisor and notify the Community Learning and Development support worker
- f) The Community Association should comply with the findings of any Fire Risk Assessment, particularly at times where high numbers of persons will be present within the facility.

5. Finance

- a) It is a legal requirement for registered charities and other similar organisations to have a management committee or equivalent. The constitution should contain details of its role and responsibilities.