

# North Lanarkshire Council

## Report

### Policy and Strategy Committee

approval  noting

Ref KH/LM/CM

Date 28/02/19

### Resolutions to facilitate Integrated Delivery of Cultural and Leisure Services

**From** Katrina Hassell, Head of Business Solutions

**Email** hassellk@northlan.gov.uk

**Telephone** 01698 302235

#### Executive Summary

The council as sole member of CultureNL Limited and North Lanarkshire Leisure Limited is required to approve a special resolution in respect of any proposed changes to company name or Articles of Association.

On 6 December 2018, the former Policy and Resources Committee approved the indicative Integration Plan prepared by the Programme Board formed to legally merge both organisations, with officers authorised to prepare the Special Resolutions necessary to take forward the business merger. This was further considered at Council on 20 December 2018, with the Head of Legal and Democratic Solutions specifically tasked with progressing the preparation of the necessary resolutions.

This report details two areas which require Special Resolutions to be prepared following consideration and approval, as appropriate, by Committee.

#### Recommendations

Members are asked to:

1. Approve the proposal to change the name CultureNL Limited to Culture and Leisure NL Limited;
2. Approve amendments to CultureNL's existing Articles of Associations to reflect integrated sport, leisure and cultural service delivery in support of WE Aspire;
3. Delegate authority to the Head of Communities and the Head of Democratic and Legal Solutions to finalise the form of the changes to the Articles of Association of Culture NL Limited following any further changes which may be necessary following input from OSCR and for them to prepare the relevant Special Resolutions required to bring the change of name and change to the Articles of Association of Culture NL Limited.
4. Authorise the Head of Legal and Democratic Solutions to finalise the necessary Special Resolutions for submission to Companies House and the Office of the Scottish Charities Regulator (OSCR); and
5. Note the effective date for integrating service delivery is now 1 June 2019

#### Supporting Documents

**Council business plan to 2020** The proposed Articles of Association create a mechanism for Culture and Leisure NL Limited to deliver services which support all five of the Council's key priorities and promote North Lanarkshire as **the** place to live, learn, work, invest and visit.

**Appendix 1** Articles of Association of Culture and Leisure NL Ltd (**to be tabled at committee**)

**Appendix 2** Summary of Amendments to CultureNL Ltd Articles of Association

## **1. Background**

- 1.1 The council has recently taken a number of decisions in relation to future service delivery arrangements for the services and functions currently provided by CultureNL Ltd. and NL Leisure Ltd. As part of the process for achieving integrated delivery arrangements the council, as the sole member of each company, is required to approve any change in the companies constitution and to thereafter prepare Special Resolutions authorising the company to adopt the new Articles and submit such to both Companies House and the Office of the Scottish Charities Regulator (OSCR).
  - 1.2 At its meeting of 20 December 2018 the council gave the Head of Legal and Democratic Solutions authority to prepare and execute the resolutions which require Council approval to achieve the merger of the two companies. This report summarises proposed change to the name of Culture NL Limited and changes to the Articles of Association of Culture NL Limited required to achieve merger with North Lanarkshire Leisure Limited. These will be brought into effect through Special Resolutions prepared and executed as described.
- 

## **2. Report**

- 2.1 At its meeting of 30 January 2019, the CultureNL/NL Leisure Ltd Integrated Service Programme Board discussed a variety of merged entity factors, including the name of the company and changes required to the Articles of Association.
  - 2.2 Following discussion, the Programme Board agreed to recommend to the council that CultureNL Ltd. be renamed Culture and Leisure NL Limited as this is considered to more fully reflect the portfolio of services which will be delivered by the new merged business.
  - 2.3 The Programme Board also considered a range of proposed amendments to CultureNL Limited's existing Articles of Association. Whilst both companies presently have very similar Articles, key changes to Purposes, Proceedings at Meetings and Categories of Directors for example require to be amended to reflect the constitution, purposes and powers of the merged entity approved by the council.
  - 2.4 The Programme Board, through each company's Legal Advisors, submitted their proposed amendments to the council for consideration. Following a series of conference calls and electronic engagements, all three parties produced draft amendments to Articles of Association for Culture and Leisure NL Limited, which are now submitted for Member consideration at Appendix 1. These revised Articles still require formal consideration by the existing Boards of Directors at their next scheduled Board meetings.
  - 2.5 A summary of the key variations proposed to CultureNL Limited's existing Articles are also outlined in Appendix 2 for Members' information. These changes reflect the full portfolio of services which will be delivered by the merged entity, enable the council to nominate an increased number of Partner Director, and also provide the council, in line with Audit Scotland guidance, improved opportunities to safeguard its interests and assets, with council representation/consultation now required for all Board meetings and senior officer appointments.
  - 2.6 With NL Leisure Ltd not due to meet again until 7 March 2019, and OSCR requiring a minimum of 42 days to consider any variation to a charity's Articles, the target date of 1 April 2019 is therefore no longer achievable. A revised date of 1 June 2019 is now considered more realistic.
- 

## **3. Equality and Diversity**

### **3.1 Fairer Scotland**

Culture NL Ltd and NL Leisure Ltd contribute to the Fairer Scotland Duty by delivering services which aim to reduce inequalities of outcome and socio-economic disadvantage. Proposed purposes for the merged entity includes for example “promoting opportunities accessible to all”, which clearly reflects the spirit and intention of the Fairer Scotland Duty.

### 3.2 **Equality Impact Assessment**

Equality Impact Assessments will be carried out in line with the Council Policy and The Fairer Scotland Duty.

---

## 4. **Implications**

### 4.1 **Financial Impact**

There are no immediate financial implications arising from this report.

### 4.2 **HR/Policy/Legislative Impact**

CultureNL Ltd, as the entity being retained, will need to submit the Special Resolutions as approved to both Companies House and OSCR for it to continue to remain compliant with its company constitution.

### 4.3 **Environmental Impact**

There are no environmental impacts in relation to Culture NL Ltd or NL Leisure Ltd arising from this report.

### 4.4 **Risk Impact**

A range of risks which may arise from integrating service delivery, along with the probabilities, impacts and mitigating actions for each are included within the joint Risk Management Plan approved by the Programme Board on 19 November 2018. This Plan is monitored by the existing Boards of Directors and their respective management teams.

---

## 5. **Measures of success**

- 5.1 The council, has undertaken appropriate consultation with the Boards and their respective Legal Advisors to develop Special Resolutions which create Articles of Association that enable the merged entity Culture and Leisure NL Limited to deliver services which support the council’s ambition of North Lanarkshire being **the** place to live, learn, work, invest and visit.

5.2

---



**Head of Business Solutions**

**Articles of Association of Culture and Leisure NL Ltd  
Summary of key variations proposed to CultureNL Ltd Articles**

**Amendments to Articles in general**

The Articles have been amended throughout to incorporate the charitable objects of North Lanarkshire Leisure Limited into the objects of Culture NL Limited and also to align the constitution of Culture NL Limited, which will form the basis for the constitution of the merged company, with the current ambitions of North Lanarkshire Council.

**Key Amendments reflect:**

**Article 2**

Changes to defined terms:

2.7 activities of Culture NL Limited amended to incorporate sporting and leisure activities;

2.8 definition of Culture NL Limited facilities to include sporting and Leisure facilities;

2.14 & 2.15 - Amendment to include definition of Senior Operating Officer and Senior Officer to reflect changes at Articles 125 and 126

**Article 4**

Amendment of Culture NL Limited Charitable Objects to include reference to sporting and leisure activities, and to remove references to providing and developing facilities

4.10.1 & 4.10.2 - deletion of “development”. The merged entity will not have the power to develop facilities.

**Article 31-36**

Amended to allow for appointment of a Co-Chair to the Board

**Article 52**

Removal of post of Employee Director and reassignment of post as an Independent Director

**Articles of Association of Culture and Leisure NL Ltd  
Summary of key variations proposed to CultureNL Ltd Articles**

**Article 53**

Amendment to number of directors on the Board. Culture NL Board constitution is currently 13 directors being a maximum of 6 Partner Directors, 5 Independent Directors, one Trades Union Director and one Employee Director. Amended to 15 directors being a maximum of 7 Partner Directors, 7 Independent Directors and one Trades Union Director.

**Articles 94-95**

Amendment to quorum required for Board meetings to proceed to provide clarity on types of Director required to be present

**Article 111**

Amendment allows the Board to delegate the powers of the Chair to the Co-Chair so long as the post of Chair is vacant or the Chair is unwilling or unable to act

**Article 116**

Amended to provide for attendance of Council Officer at Nominations Committee meetings for recruitment of Independent Directors.

**Article 123**

Amendment to name and constitution of Health and Safety Committee

**Articles 125 and 126**

Amended to provide for Council approval of appointment of the Chief Executive and other Senior Officers.

**Article 131**

Amendment to include provision for attendance of Council Officer at Board meetings