



Northumberland

County Council

AUDIT COMMITTEE

28 July 2021

Statement of Accounts - Group Boundary Review

Report of Jan Willis, Interim Executive Director of Finance

Cabinet Member: Richard Wearmouth, Portfolio Holder for Corporate Services

1. Purpose of Report

- 1.1 The purpose of this report is to provide members of the Audit Committee with details of the boundary review which has been undertaken to determine those organisations which should have their financial statements consolidated with the Council's Statement of Accounts for the financial year ended 31 March 2021.
- 1.2 Particular consideration is given to the position of Active Northumberland.

2. Recommendations

- 2.1 It is recommended that the members of the Audit Committee:
 - a. Note the contents of the report.
 - b. Note that the financial statements of Advance Northumberland Limited will continue to be consolidated with the Council's Statement of Accounts for the financial year ended 31 March 2021.
 - c. Note that Arch (Corporate Holdings) Limited remained dormant in financial year 2020-21 and was dissolved on 10 November 2020. As a result of this there are no figures to consolidate. A note to this effect will be included in the Council's Statement of Accounts.
 - d. Note that Northumberland Enterprise Holdings Limited remained dormant during the financial year 2020-21. As a result of this there are no figures to consolidate. A note to this effect will be included in the Council's Statement of Accounts. Once Northumberland Enterprise Holdings Limited commences trading it is envisaged that its financial statements will be consolidated with the Council's Statement of Accounts.

- e. Agree that Active Northumberland's financial statements **should not** be consolidated with the Council's Statement of Accounts for the financial year ended 31 March 2021.

3. Link to the Corporate Plan

- 3.1 This report is consistent with the priorities in the Corporate Plan 2018-21 "A Council that works for everyone".

4. Key Issues

- 4.1 The Council has undertaken an assessment (Boundary Review) in advance of producing its 2020-21 Statement of Accounts to ascertain if there are any relationships which fall under the definition of the Code and should therefore be consolidated into the group position. The outcome of the review is detailed within the report.
- 4.2 The Code of Practice on Local Authority Accounting in the United Kingdom 2020-21 "the Code" paragraph 9.1.1.7 sets out a requirement to prepare group accounts where the authority has interests in subsidiaries, associates and/or joint ventures, subject to consideration of materiality.
- 4.3 The Code does not make any specific comments on the consolidation of charitable organisations in local authority financial statements; therefore, local authorities are required to follow the requirements of IFRS 10 in the Code; and, where material, consolidate any charitable trust where an authority meets the criteria for control.

5. Advance Northumberland Limited

- 5.1 Advance Northumberland Limited is a wholly owned company of Northumberland County Council. The company was established on 13 November 2018 when all of the assets, liabilities and shares of the Arch Group were transferred to it.
- 5.2 Northumberland County Council has a material financial interest and a significant level of control over Advance Northumberland Limited and it is named in the Council's Statement of Accounts as an "Entity Controlled or Significantly influenced by the Council".
- 5.3 Since its inception the financial statements of Advance Northumberland Limited have been consolidated with the Council's Statement of Accounts and they will continue to be consolidated for the financial year 2020-21.

6. Arch (Corporate Holdings) Limited

- 6.1 Arch (Corporate Holdings) Limited was dissolved on 10 November 2020.
- 6.2 Arch (Corporate Holdings) Limited had been a wholly owned company of the Council.
- 6.3 Northumberland County Council therefore had a material financial interest and a significant level of control over Arch (Corporate Holdings) Limited and it is named in

the Council's Statement of Accounts as an "Entity Controlled or Significantly influenced by the Council".

- 6.4 The financial statements of Arch (Corporate Holdings) Limited would have been consolidated with the Council's Statement of Accounts for the financial year 2020-21, however the company remained dormant during the year until it was dissolved.

7. Northumberland Enterprise Holdings Limited

- 7.1 Northumberland Enterprise Holdings Limited was incorporated on 17 September 2020 and is a wholly owned company of Northumberland County Council.
- 7.2 Northumberland County Council therefore has a material financial interest and a significant level of control over Northumberland Enterprise Holdings Limited and the company will be named in the Council's Statement of Accounts as an "Entity Controlled or Significantly influenced by the Council".
- 7.3 The financial statements of Northumberland Enterprise Holdings Limited would have been consolidated with the Council's Statement of Accounts for the financial year 2020-21, however, the company has remained dormant during the year.
- 7.4 Once Northumberland Enterprise Holdings Limited commences trading it is envisaged that its financial statements will be consolidated with the Council's Statement of Accounts.

8. Active Northumberland

Determination of Control

- 8.1 The following factors should be considered when determining whether Active Northumberland should be consolidated with the Council's accounts. Active Northumberland is not a wholly owned or partially owned subsidiary of the Council.
- 8.1.1 The purpose and design of the charitable trust:
- a. Active Northumberland is registered at Companies House (08484436) as a Private Limited Company by guarantee without share capital use of 'Limited' exemption.
 - b. Active Northumberland is registered with the Charity Commission (1153198).
 - c. Active Northumberland's Memorandum and Articles of Association were amended on 15 November 2017 to change the membership of the charity to both organisation members and individual members. Previously members consisted of a suitably qualified senior representative from the following 5 organisations:
 - Northumberland County Council
 - Northumberland National Park Authority
 - Northumbrian Water Limited
 - Advance Northumberland (previously Arch)

- Northumbria Healthcare NHS Trust
- d. The change made to the Memorandum and Articles of Association allowed the Charity to appoint up to five individual members, in addition to the five organisation members.
- e. Active Northumberland's Memorandum and Articles of Association were further amended on 17 April 2019 to change the membership of the charity to individual members only. The Trustee from Northumberland County Council resigned on 30 November 2018 and the Trustee from Advance Northumberland resigned on 8 May 2019 (see Appendix A for details). There have been no further Board appointments from Northumberland County Council or Advance Northumberland. The number of Trustees shall not be less than three and, unless otherwise agreed by the Trustees, shall not be subject to any maximum. There are currently 7 Trustees on the Board (see Appendix A for details).
- f. Consideration needs to be given to the following:
- Whether or not the Council has voting rights on the Board of Trustees; and,
 - whether or not the Council is able to exercise the majority of voting power over the Trust.

There have been no representatives from Northumberland County Council on the Board during 2020-21 and therefore no direct influence has been exerted by the Council.

- g. It should be noted that despite Advance Northumberland being wholly owned by the Council, the Council did not actually have any influence over the Advance Northumberland vote during the time the Advance Northumberland member was on the Board. In instances where the Advance Northumberland member had an interest, they would declare that interest and leave the meeting whilst any discussion took place, and a decision was made by the remaining members. This can be evidenced in the Board minutes.
- h. The Council is not involved with the recruitment of Active Northumberland Board members. The Memorandum and Articles of Association allow the Active Northumberland Board the ability to appoint and remove Board members.
- i. All Active Northumberland Board members are required to adhere to the Code of Conduct and submit declarations of interest. A Trustee must declare the nature and extent of any interest, direct or indirect, which they have in a proposed transaction or arrangement with the Charity which has not previously been declared. A Trustee must absent themselves from any discussions of the Trustees in which it is possible that a conflict will arise between their duty to act solely in the interests of the Charity and any

personal interest. The Trustee does not vote on any such matter. This can be evidenced in the Board minutes.

8.1.2 What the relevant activities of the charitable trust are and how decisions about those activities are made.

a. From 1 April 2018 Active Northumberland was commissioned by Northumberland County Council to provide Leisure Services. Whilst the Council determines what activities it requires Active Northumberland to deliver on its behalf, the Council is not involved operationally with how those services are delivered and this is a matter for the Active Northumberland Board. This can be evidenced in a strictly confidential letter dated 27 February 2018 from the Council's Chief Executive to the Chair of Active Northumberland.

8.1.3 IFRS 10 states that an investor (the Council) controls an investee (Active Northumberland) if and only if the investor has all the following elements (8.1.4, 8.1.5 and 8.1.6)

8.1.4 Whether the rights of the authority give it the ability to direct the relevant activities of the charitable trust. Such rights can be straightforward (e.g. through voting rights) or be complex (e.g. embedded in contractual arrangements). A holder of protective rights cannot have power over an investee and so cannot control the investee

- a. As described in point 8.1.2 operational decisions are taken by the Active Northumberland Board and not the Council. This can be evidenced in the Active Northumberland Board minutes and via the Partnership Agreement.
- b. The Partnership Agreement between the Council and Active Northumberland does not contain protective rights.

8.1.5 Whether the authority is exposed, or has rights, to variable returns from its involvement with the charitable trust. Such returns must have the potential to vary as a result of Active Northumberland's performance and can be positive, negative, or both.

- a. No positive returns are made from Active Northumberland to the Council. All balances are retained by Active Northumberland, and it is the decision of the Active Northumberland Board how those reserves are used. In the event that the charity dissolves then the Board will decide what it does with the funds.
- b. The Council has provided significant additional funding to Active Northumberland during the current financial year to assist in minimising the impact of the Covid-19 pandemic. This could be assessed as a negative return under IFRS 10, although due to exceptional circumstance (Force Majeure).
- c. The Partnership Agreement between the Council and Active Northumberland references Force Majeure in section 31 – Termination on Force Majeure (page 53) and section 36 – Compensation on Termination for Force Majeure (page 58).

- d. Section 31.3 – Consultation (page 53) states that ‘as soon as practicable following such notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of the relevant Project Agreement’.
 - e. The significant additional funding provided to Active Northumberland forms part of the outcome to this consultation between the parties.
- 8.1.6 Whether the authority has the ability to use its power over the charitable trust to affect the amount of the returns to the authority
- a. No returns are made from Active Northumberland to the Council. The Council sets the scope in terms of the services that it would like Active Northumberland to provide. However, the Council does not exercise control or power over how Active Northumberland delivers these services. The Board of Active Northumberland determines the delivery plan.
 - b. The Council has agreed to support Active Northumberland by providing additional funding which will affect the variable returns (link to Cabinet report dated 9 March 2021 where the additional funding was approved <https://northumberland.moderngov.co.uk/documents/s2140/Financial%20Performance.pdf>).
 - c. Active Northumberland serves only a single customer, the Council, which implies it is highly dependent upon the Council’s actions, funding and wider support.
 - d. Analysis suggests that Active Northumberland would struggle to leverage alternative funding arrangements, such as bank loans, as they have limited long-term assets. This increases the dependence upon the Council.
- 8.1.7 Other factors
- a. The budget for Active Northumberland is funded predominantly by service income, as well as a management fee from the Council. The proportion of budgeted income which was service income in 2019-20 was 83% and the management fee was 17%. For 2020-21, service income was 20%, management fee was 20% with the remaining 60% being Covid grants and other financial support. In previous years Advance Northumberland provided a charitable donation of up to £1 million to Active Northumberland however this arrangement has now ended. Due to the cessation of the arrangement, it was agreed at the meeting of the County Council on 19 February 2020 that the Council would increase the management fee in 2019-20 and then in the subsequent two years by up to £1 million.
 - b. The Council’s Rate Relief Policy was amended from 1 April 2018 and approved at the meeting of the County Council on 21 February 2018. The policy grants 20% discretionary relief top up for business rates to Leisure

Centres operated by Charitable Trusts. For Active Northumberland this amounts to £0.282 million.

- c. There is a Leisure Partnership Agreement, covering the period 2018-19 to 2021-22, which formally documents the commissioner/provider contractual relationship between the Council and Active Northumberland for the provision of Leisure Services. The agreement was signed by the Council's Legal Services Manager and the Chair of the Active Northumberland Board and Company Secretary on 18 April 2019.
- d. There are quarterly review meetings between Active Northumberland and Northumberland County Council. The meetings are attended by the Council's client officer, Contracts Officer and representatives from Active Northumberland. Prior to each quarterly review meeting Active Northumberland is required to provide quarterly key performance indicators (KPIs) and a written report on progress and achievements against the Annual Plan under the headings of Partners, People, Places and Products. Quarterly KPI results are shared with the Council's Performance Team via the Corporate Performance system and reported to the Executive Team and Cabinet accordingly.
- e. A number of Service Level Agreements (SLAs) between Active Northumberland and the Council were agreed and effective from 1 April 2018. Active Northumberland purchases some of its support services from the Council. The SLAs continued throughout 2020-21. A review of the support services SLAs has been undertaken by Active Northumberland and the Board has agreed to appoint a Director of Finance sometime in the future.
- f. The Active Northumberland Board agreed to establish two new committees - a Finance and Performance Committee, and an Audit and Risk Committee. The Finance and Performance Committee was established in February 2019 and the committee meets bi-monthly. The purpose of the Finance and Performance Committee is to assist the Board in its responsibilities by reviewing:
 - financial planning and information;
 - strategic financial plans, the annual operating and capital budgets and quarterly forecasts;
 - performance against plans and their key targets;
 - appropriateness of accounting and financial policies;
 - appropriateness and method of disclosure of information relating to Active Northumberland;
 - investment appraisal and post investment performance;
 - funding requirements and terms, including monitoring bank covenants; and,
 - financial liabilities.

The purpose of the Audit and Risk Committee is to monitor, review and report to the Board on the effectiveness of Active Northumberland's risk management processes and financial and other internal control systems. This includes effective internal audit, risk management and compliance functions and to monitor the application of Active Northumberland's accounting policies, financial statements and external reporting responsibilities. The Committee's role also extends to overseeing Active Northumberland's relationship with its External Auditors. At present the Audit and Risk committee's work is being subsumed in the short term into the Finance and Performance Committee. The committee is currently known as the Finance and Audit Committee.

- g. A facilities review was undertaken during 2017-18, with Active Northumberland staff presenting reports to the Board in relation to Active Northumberland's portfolio. These reports remain available should building lease arrangements be due to expire or should a performance review of a facility be required. Performance information is provided to the Active Northumberland Finance and Audit Committee and Board on a monthly basis through the Finance Report.
- h. Active Northumberland has established and implemented a business plan and strategy.
- i. The Board agreed to introduce its own internal audit provision. The contract was awarded in March 2020 to TIAA. They attend Active Northumberland's Finance and Audit Committee.
- j. The 2020-21 budget was agreed by the Board at its meeting on 12 August 2020. A monthly report was produced to ensure that the Executive Team, Finance and Audit Committee and Board were informed of the financial position against the budget for 2020-21.
- k. The draft 2020-21 budget and medium-term financial plan was reviewed at the Finance and Audit Committee meeting on 28 January 2020 and Active Northumberland Board meeting on 12 February 2020. The 2020-21 budget and medium-term financial plan was planned to be agreed at the March 2020 Board meeting. However, due to Covid-19 the Board meeting was cancelled, and the budget was required to be amended as a result of site closures. The Active Northumberland Board wrote to the Council on 9 April 2020 requesting financial support due to the impact of Covid-19. The Council responded on 29 April 2020 outlining its proposals for additional financial support as follows:
 - The Council to cover the cost of capital items for the schemes at Ponteland and Blyth at a net value of £0.770 million.
 - A large number of Active Northumberland staff were furloughed on 80% of their salary. The Council advised Active Northumberland that it would fund the 20% top up of salary costs so that staff received 100% of their salary. For the period April to June 2020 the cost was £0.386 million.

- The Council is also in discussion with Active Northumberland regarding the level of assistance required to balance the budget for 2020-21. The provisional figure required is £1.875 million which has been accrued in both parties' financial statements.

9. Conclusion

9.1 The financial statements of the following entities should be consolidated with Northumberland County Council's Statement of Accounts for the financial year ended 31 March 2021:

- Advance Northumberland Limited
- Arch (Corporate Holdings) Limited
- Northumberland Enterprise Holdings Limited

9.2 The Council does not legally own Active Northumberland, nor does it have direct control, via members on the Active Northumberland Board. It is a third-party legal entity with a contractor relationship with the Council. Although Active Northumberland is highly dependent upon the Council and has received significant financial support due to the impact of Covid-19, all additional financial support can be linked back to a Force Majeure event and should be managed via a contract variation to the Partnership Agreement which the Head of Cultural Services is leading on. It is concluded that Active Northumberland does not fall within the scope of group accounts as per the Code of Practice on Local Authority Accounting in the United Kingdom 2020-21 and IFRS 10 and should therefore continue to be out of scope of Northumberland County Council's consolidated Statement of Accounts for the financial year ended 31 March 2021.

Implications

Policy	The CIPFA Code of Practice on Local Authority Accounting in the United Kingdom 2020/21. The CIPFA Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 guidance notes for practitioners. The CIPFA accounting for collaboration in Local Government.
Finance and value for money	This report has no financial implications for the Council.
Legal	There are no specific legal implications within this report.
Procurement	There are no specific procurement implications within this report.
Human Resources	There are no specific human resources implications within this report.
Property	There are no specific property implications within this report.
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	There are no specific equalities implications within this report.
Risk Assessment	The risks associated with the budget were considered in February 2021 and were considered to be acceptable.
Crime & Disorder	There are no specific crime and disorder implications within this report.
Customer Consideration	There are no specific customer consideration implications within this report.
Carbon reduction	There are no specific carbon reduction implications within this report.
Health & Wellbeing	There are no specific health & wellbeing implications within this report.
Wards	All wards.

Background papers

The CIPFA Code of Practice on Local Authority Accounting in the United Kingdom 2020/21.

The CIPFA Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 guidance notes for practitioners.

The CIPFA accounting for collaboration in Local Government.

Report sign off

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Interim Executive Director of Finance & Section S151 Officer	Jan Willis
Relevant Executive Director	Jan Willis
Chief Executive	Daljit Lally
Portfolio Holder	Richard Wearmouth

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Current Board Membership of Active Northumberland

Trustee	Role	Key Dates
David Hall	Chair	Appointed 19 October 2015
Jane Riley	Vice Chair	Appointed 21 September 2018
Karla Sweeney	Secretary	Appointed 1 April 2021
Malcolm Copland	Director	Appointed 21 September 2018
Steve Crosland	Director	Appointed 21 September 2018
Modaser Choudhary	Director	Appointed 12 February 2020
Claire Riley	Director	Appointed 12 February 2020

Former Board Membership of Active Northumberland

Trustee	Role	Key Dates
Peter Stonell	Secretary	Appointed 23 June 2016 Resigned 13 May 2020
Ken Dunbar	Advance Northumberland	Appointed 11 December 2017 Resigned 8 May 2019
Cath Homer	Northumberland County Council	Appointed 14 June 2017 Resigned 30 November 2018
Lindsay Marie Muers	Director	Appointed 12 February 2020 Resigned 9 June 2021