

**DCAL's Review**  
**of**  
**Arts Council of Northern Ireland**

**Stage 2**  
**Emerging Conclusions**

**July 2014**

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# 1 Introduction

1.1 On 20<sup>th</sup> March 2014, the Stage 1 review of the Arts Council of Northern Ireland (ACNI) concluded that the functions were required and that the review should proceed to Stage 2 to examine the potential options for future delivery of the functions. The long list of options as identified in the original Project Initiation Document were:

- **Retain as an arm's length body (do nothing)**

Consider how well ACNI currently deliver the functions compared with other available models?

- **Transfer out of central government**

Is there an existing provider (or providers) in local government, the voluntary or private sector that could deliver the functions?

- **Transfer the Function into the Department**

Why do the functions need to be delivered at arm's length? What are the costs and benefits of bringing the function into DCAL?

- **Transfer to a New Executive Agency**

Consider the advantages with transferring the function to a new executive agency within the Department rather than fully integrating into the Department?

- **Merge with another Public Body**

Is the work of ACNI undertaken elsewhere or are there any other government bodies providing similar functions or complimentary functions?

## 2 Approach to analysis

2.1 Stage 2 will consider all future delivery models, as identified above at 1.1, to determine which options merit further consideration and which should be ruled out. Where options are ruled out, the rationale for exclusion is set out (Section 7 identifies the shortlisted options).

2.2 In order to inform this stage, DCAL staff have consulted with ACNI's executive team, DCAL's sponsor team and the Cultural Director, to seek their views on each of the potential options. The review also considered the views of the major stakeholders, including local government.

2.3 The review considered how ACNI functions tested against the three criteria, as used in the Coalition Government's review of their public bodies, namely:

- Does the body perform a technical function?
- Do its activities require political impartiality?
- Does the body need to act independently to establish facts?

2.4 The rationale behind the GB reviews was that a body should remain at arm's length from government if it passed at least one of the above tests.

## **2.5 Do ACNI perform a "Technical Function"?**

ACNI core business is providing grants to professional artists and arts organisations, in a wide variety of artistic disciplines. However, ACNI are much more than a grant giving organisation. They are the principal development agency for the arts in the north and also provide an advisory role to Local Government (as enshrined in legislation). ACNI recruit staff for their expert knowledge and experience of the arts and this knowledge base has enabled them to build up a reputation with the sector over the years. However, there are no specific technical skills required to carry out the function.

**While ACNI does NOT meet the "technical function" test, any future delivery model needs to ensure sectoral knowledge and experience is maintained.**

## **2.6 Do ACNI's activities require "Political Impartiality"?**

ACNI feel it is critical that arts development / funding remains neutral with no perceived community or political association and that all funding decisions are transparent and impartial. The current arrangement for delivery of the functions by an arm's length body adds to public confidence that decisions are taken without prejudice. The Arts Council (Northern Ireland) Order 1995 includes a reference that the Department should not interfere with ACNI's artistic judgment in deciding whether to provide financial assistance and the arm's length arrangement provides this distance between Minister and any funding decisions. This is discussed later in more detail at the non monetary analysis stage in Section 8.

**ACNI meets the "Political Impartiality" test.**

## **2.7 Does ACNI need to act independently to establish facts?**

The third criterion applies to bodies which carry out an independent regulatory role or tribunal role.

**This criterion does NOT apply.**

2.8 As ACNI meets one of the above criterion (as set out in paragraph 2.3) we could therefore conclude that ACNI should remain at arm's length. However, the

GB tests determine the best solution for the GB context and the DCAL review will need to establish the best solution, in the public interest, for our local devolved arrangements. For example, a GB review of the Ordnance Survey Function in England concluded that it should remain as an NDPB as they perform a technical function. However, in the north the same function is delivered by Land and Property Services, initially established as a “next steps” Agency in DFP but integrated into the “core” department from April 2013. This review will consider additional factors such as costs, benefits and the achievement of Departmental and Executive objectives, before a final recommendation is made.

### **3 How do other jurisdictions support the arts?**

3.1 In considering options for the future delivery of the arts functions, a brief review has been undertaken of how similar services are delivered in England, Wales, Scotland and Ireland.

#### **3.2 England**

In 2002, The Arts Council of England and the 10 regional arts boards merged to form the *Arts Council England*, the arm's length body that delivers the arts functions in England. The Arts Council England has a wider remit than that of ACNI, as from 2011 they took on responsibility for supporting and developing museums, libraries and archives as part of their functions. During 2011/12 they invested £393 million in grant-in-aid from government (including 0.3% for support to museums and libraries) and a further £211 million was funded through the National Lottery. During the same year ACNI invested £19 million of exchequer funding and £8.5 million of lottery funding. The review of the Arts Council of England in 2010 concluded that it should be retained on grounds that it performed functions which required political impartiality.

#### **3.3 Wales**

The arts functions in Wales are also delivered through an arm's length body, the *Arts Council Wales*, and during 2011/12 they invested £35 million in grant-in-aid from the Welsh government and £15 million from the National Lottery.

#### **3.4 Scotland**

The arts functions in Scotland are delivered through an arm's length body called *Creative Scotland*, which was formed in 2010, with the merger of the Arts Council Scotland and the Creative and Screen Industries and in 2011/12 the government grant was £49.8 million. The merger has received negative reaction from the sector with many artists expressing their loss of confidence and trust in Creative Scotland policies and are critical of their focus on commercial priorities. An assessment of establishing a similar model for the north is addressed at 4.7.

#### **3.5 Ireland**

The arts functions in the south are delivered through a public body / national agency for funding, developing and promoting the arts in Ireland. Over the course of 2011, the Irish Arts Council received €65.16 million in grant-in-aid from their exchequer.

3.6 The review will now continue to examine the long list of potential options and consider which options should proceed to a short list for further analysis.

## 4 Long List of Options

### 4.1 *OPTION 0 - Retain as a non-departmental body*

Continued delivery of the functions by ACNI is the baseline “do nothing” Option 0. In this option the functions would remain with ACNI and the Department would address the conclusions and recommendations from Stage 1 of the review (i.e. performance, efficiency, etc) separately through an agreed action plan.

**Retaining ACNI as an NDPB is included in the shortlisted options.**

### 4.2 *OPTION 1 - Transfer out of Central government to Local Government*

The review included external consultation with a group of stakeholders, including all 26 local authorities, asking for their views on future delivery options. A small number of respondents felt that the local councils were best placed to identify the arts needs within their own regions and were critical of current investments being mainly Belfast/Derry centred. However, ACNI delivers its functions at a regional level and if the functions were transferred to local government, this strategic focus would be lost. This would make delivery of the Department’s priorities (relating to promoting equality and tackling poverty and social exclusion, community arts and suicide prevention) more difficult to achieve. Moving forward, the “*Community Arts Strategy*” has been developed to facilitate greater involvement for local government, articulate the value of local commitment to the arts and provide a framework for coherent co-ordination of policy and action. It should also be noted that, under current GB legislation, lottery funding cannot transfer to local government, which could result in confusion for the sector with funding available from multiple sources.

**Transfer of ACNI’s functions to local government has been ruled out.**

### 4.3 *OPTION 2 - Transfer out of Central government to the Private Sector*

A significant component of ACNI’s role is to ensure equitable distribution of Exchequer and lottery funding to artists and arts organisations through grant administration. Transfer of the Exchequer funding role to the private sector would have to be achieved through tendering their full range of services and may result in splitting the functions across multiple providers, which is likely to result in a less effective or coherent service. The transfer would also distance the provider from Departmental control and could hinder delivery of Executive and Ministerial priorities. It would also require the development of additional oversight arrangements which are likely to negate any efficiencies achieved. In addition, administration of lottery funding could not be transferred to the private sector and new GB legislation would also need to be brought forward to provide a new body to distribute the lottery monies.

**Transfer of ACNI’s functions to the private sector has been ruled out.**

#### **4.4 OPTION 3 - Transfer out of Central government to the voluntary sector**

ACNI's functions include grant administration, increasing participation and attendance at the arts, developing capacity within arts organisations; support for individual artists, acquisitions, capital investment, etc. While the voluntary sector plays a major role in supporting the arts to all sections of our community, we were unable to identify a voluntary body that could carry out this range of functions.

**Transfer of ACNI's functions to the voluntary sector has been ruled out.**

#### **4.5 OPTION 4 - Transfer the function to the Department**

All of ACNI's functions, excluding lottery distribution, could transfer to the Department. This transfer would require new primary legislation and secondary legislation to put in place arrangements for arts lottery distribution.

4.5.1 **Assumption 1:** The Department would be successful in sourcing a suitable body, willing to distribute the lotteries monies and the Department for Culture, Media & Sport (DCMS) would be in agreement with any new arrangements. Early engagement with DCMS and Big Lottery Fund would be required as current legislation lists ACNI as a distributor of lottery funding to the arts in the North.

4.5.2 **Assumption 2:** The alternative body that would deliver the arts lotteries functions would do so at a similar cost – ie the lottery recharges (currently listed as income) would remain the same. Therefore, for the purpose of this exercise, lottery has been ignored in the costing exercise, as income lost would result in reduced staffing with no net effect.

**Transfer of ACNI's functions to the Department is included in the shortlisted options.**

#### **4.6 OPTION 5 - Transfer to a new Executive Agency**

Transfer of the functions of ACNI to a new "next steps" executive agency within the Department is similar to transferring the functions to the Department. It could offer some additional flexibility in delivering the function while being more directly accountable to the Minister. However, it is unlikely to deliver the administrative savings available through a transfer into the core Department, as an Executive Agency would still require a separate accounting officer, produce annual reports / accounts and corporate / business plans.

**Transfer of ACNI's functions to the Department as a "next steps" agency has been ruled out.**



#### **4.7 OPTION 6 - Merge with another Public Body**

Sport NI and ACNI are similar in that they both provide grants and the review considered the potential to merge these functions. The funding programmes of the two bodies are significantly different, require different sectoral expertise and different programme management skills and, in order to maximise the social benefits of public funding for the arts and sports sectors, this staff expertise would continue to be required post any merger. Therefore, merging the two bodies would not be appropriate. However there may be some potential for sharing the finance and accounts functions which support the grant making process. This is being reviewed as part of shared services covered at 4.9.

**A merger with Sport NI has been ruled out.**

- 4.8 Another potential body for a merger is NI Screen, similar to the merger in Scotland in 2010 of the Scottish Arts Council and Scottish Screen Industries. However, in February 2013 the CAL Committee enquiry into the *Creative Industries* agreed that there was no overlap or duplication between the work of NI Screen and ACNI (a view supported by DETI) and based on the experience in Scotland, there were concerns about the potential structural and cultural difficulties of merging the bodies and a risk of undermining the services provided at present. The inquiry concluded that there was a need for more collaboration and partnership across a diverse range of stakeholders spanning central and local government, industry, academia, and the community and voluntary sectors to help boost the Creative Industries but it did not recommend the merger of NI Screen and ACNI.

There are no other organisations who deliver comparable functions to ACNI.

**Merging ACNI's functions with another Public Body has been ruled out**

#### **4.9 Shared Services**

The option of sharing internal services across ACNI and other ALBs, particularly those that are considered more non-specialist in nature (such as 'back office' IT, HR or finance functions) will be examined after all reviews have been completed. Therefore, this option is also not considered here.

#### **4.10 Shortlisted Options**

The two options brought forward for further investigations are:

**OPTION 0 - Retain the Arts Council as an Arm's Length body**

This option will inform the baseline for comparison against option 4 - to transfer the functions into the core Department

**OPTION 4 - Transfer the Arts functions to the core Department**

All functions will transfer with the exception of lottery distribution functions.

- 4.11 The next step will be to examine the above two shortlisted options (retain ACNI or transfer into the Department) against non monetary factors and cost.

## 5 Non Monetary Analysis

5.1 The short listed options are:

- Option 0 - retain ACNI as an arm's length body and
- Option 4 – transfer ACNI's functions into DCAL

5.2 The two options are assessed against key non monetary criteria listed below. The criteria have not been listed in any order of importance.

### 5.3 Ability to exercise artistic judgement to ensure excellence and quality in the arts

**Option 0** – ACNI currently have the skills to exercise artistic judgment.

**Option 4** – With this option, staff would initially transfer from the Arts Council but over time their expertise may be diluted as staff move on or are replaced by career Civil Servants (as described at 5.8). .

### 5.4 Arts functions are delivered independent of political association (Transparency)

**Option 0** – The perception is that the arm's length arrangement provides a distance between Minister and funding decisions.

**Option 4** - In the event of a transfer of the arts functions to the Department, a new arts division would need to be established with appropriate governance and accountability controls established to ensure independence from political association. For example, a scrutiny committee for funding decisions would have to be established to scrutinize any Department's funding decisions. This should allay any concerns regarding Ministerial influence but would also negate any savings from the abolition of the Board.

### 5.5 Ability to distribute lottery funding

**Option 0** – ACNI continue to distribute lottery monies.

**Option 4** - Current lottery regulations do not permit the Department to directly distribute Lottery funding and a new distributor would need to be sourced. National Lottery Funding Decision guidance requires the distributor to plan their work strategically and, where they also administer government grant, that they ensure synergy with Government funding. The current model facilitates this synergy. Moving the function will undermine current synergy. There are peaks and troughs in funding programmes and having both lottery and exchequer administered from one body allows more effective management and use of resources. This separation of exchequer and lottery funding could have a negative impact on the strategic direction of the arts.

## **5.6 Control over delivery of the arts function in relation to policy & Departmental priorities.**

**Option 0** – There is a view that arm's length bodies tend to be more focussed on their priorities than those of the Department / Minister.

**Option 4** – Bringing ACNI into the Department would enable direct government control over the strategic direction in which arts are delivered and greater control over the delivery of departmental priorities

## **5.7 Control over Accountability and governance.**

**OPTION 0** – There is always the risk that delivery of functions by an arm's length body is less accountable than delivery in-house. However, DCAL has processes in place (MSFM, sponsorship manual, annual business plans, etc) to mitigate this risk. These processes add an additional layer to the cost of delivery and most ALBs are critical of the amount of time spent on governance controls. There is also a widely held view from the media that there is a need for democratic control over the distribution of government resources, in preference to handing control over to 'unelected' quangos.

**OPTION 4** – This option would reduce time consuming and costly governance processes.

## **5.8 Loss of expert sector knowledge and experience**

**OPTION 0** – ACNI provides a unique service that is underpinned by expert knowledge of the arts sector, both locally and internationally. This option would ensure these skills / knowledge are retained.

**OPTION 4** – A transfer to the Department would include a transfer of the ACNI staff into NICS. However, due to normal staff turnover, the arts sector expertise may be diluted and eventually lost (as staff are replaced by general civil service grades).

## **5.9 Relationships with stakeholders in the sector (including the relationships with the UK and Ireland Arts Councils)**

**OPTION 0** – Established relationships would be maintained.

**OPTION 4** – The expert knowledge that ACNI has acquired contributes to the effective working relationships that currently exist between ACNI, arts organisations and arts councils from other jurisdictions. A transfer into DCAL would risk the loss of these skills and may have a negative impact on relationships. During initial analysis the review found that many of the key arts stakeholders were very opposed to a transfer into DCAL. This could have a negative impact on the current service provided and the desired outcomes against Departmental priorities.

5.10 The results of the analysis are summarised in the table below. Each option has been weighted and scored out of 10.

5.11 The results demonstrated that Option 0, to retain ACNI as an arm's length body, and is more favourable than a transfer of the functions into DCAL (option 4).

Criteria	Weight	Option 0 - Retain ACNI as an ALB		Option 4 - Transfer to DCAL	
		Score (out of 10)	Weighted Score	Score (out of 10)	Weighted Score
Ability to exercise artistic judgement to ensure excellence and quality in the arts	20	9	180	3	60
independence of political association	15	10	150	8	120
Distribute Lottery Funding	15	10	150	0	0
Control over Policy / strategic direction / DCAL priorities	15	5	75	10	150
Accountability and Governance	15	5	75	10	150
Staff experience and expertise in arts sector	10	10	100	3	30
Relationships with stakeholders in the sector.	10	10	100	6	60
<b>TOTAL Score</b>			<b>830</b>		<b>570</b>

### 5.12 Conclusions of Non Monetary Analysis

Based on the non monetary analysis the conclusion would be to retain ACNI. The next stage will be an assessment of the cost of each option.

## 6 Cost Analysis

- 6.1 The costs for both shortlisted options (option 0 & 4) have been analysed over a ten year period, a two year implementation project and eight year period of operation. The analysis assumes that that anticipated savings would be achieved for the full operation period. A discount factor of 3.5% has been applied to the calculation of the Net Present Cost (NPC) for each option.

### 6.2 Assumptions

- 6.2.1 Programme costs remain the same.
- 6.2.2 Lottery administration and salary charges remain the same. The analysis will only examine the impact alternative delivery models will have on Exchequer expenditure. There is an assumption that the cost of administering the lottery function would remain unchanged. (ref 4.5.2)
- 6.2.3 The department would need to establish a board or scrutiny committee to advise on the sector needs (and to oversee Lottery distribution decisions should there be no alternative lottery distributor established). The analysis assumes that the costs of administering the work of this board / committee would absorb any savings achieved through winding up the Arts Council.
- 6.2.4 A transfer to DCAL assumes that the Department could still avail of income sources such as PEACE II, Atlantic Philanthropies, EU monies, etc. However, the Department would not have access to any monies from other UK grant making trusts and foundations, who mainly provide grants to charitable organisations only (ACNI is a recognised charity).
- 6.2.5 The costing analysis does NOT include IT Assist charges as it is assumed that the current IT costs and the IT Assist charges would only vary slightly and the difference would not be significant in the overall analyses.
- 6.2.6 Implementation costs include 1 x G7, 1 x DP and 1 x SO for 2 years (a transfer would require new primary legislation).
- 6.2.7 The pension IAS 19 statement of 2013 estimated the pension deficit to be £3.753 million. The IAS statement is based on "fair valuation" assumptions and should a transfer of ACNI into DCAL proceed, the cessation valuation would be based on a more conservative set of assumptions which may result in a larger pension deficit. Experience has shown that the deficit is usually much more than the IAS statement valuation and a separate sensitivity analysis shows that should asset decrease by 10% and liabilities increase by 10% the deficit could almost double to £6 million (a potential increase of £2.4 million). The analysis also estimates the actuarial fees at £50k (which may be conservative).

- 6.2.8 A HRConnect one off cost for transferring ACNI staff onto the system is estimated at £200 per staff member. This will not take account of any adaptation required for specific non NICS T&C. The HRConnect fee of £400 / year per staff member has been included in the costs for option 4 from year 2 onwards.
- 6.2.9 The analysis includes possible redundancies costs at 1.5 x average salary for the posts identified as not required should the function transfer to DCAL.
- 6.2.10 One off training costs of £200 per staff member, spilt over 2 years.
- 6.2.11 DCAL accommodation costs at £3,600 / workstation have been included from year 2 onwards.
- 6.2.12 Current lottery regulations do not permit the Department to directly distribute Lottery funding. Option 4 would require the Department to liaise with DCMS to find an alternative body for distribution of the arts lottery monies.

### **6.3 Option 0 - Retain as an arm's length body**

- 6.3.1 This option provides the baseline option for cost and benefit comparisons. For the purpose of this review all costs have been extracted from the 2012/13 annual accounts. The major non-programme costs in delivering the current range of functions are the ACNI and DCAL arts branch salary costs and other overhead costs. ACNI salary costs are the full group salary costs including social security costs and pension costs. Sponsor branch salaries are calculated on the Department's current average salaries including pension costs.
- 6.3.2 The main cost to the Exchequer is the sum attributed to expenditure on the arts which we assume would remain the same across the two shortlisted options. In 2012/13 the programme costs were around £13.4m and a further £2.1m was consumed on staff salaries. The remaining £762k was attributed to the cost of other expenses, for example, the cost of operating MacNiece House is approximately £290k / year.
- 6.3.3 Option 0 also examines the salary and accommodation costs for the supporting sponsor branch within DCAL to be £418k (this includes the cost of 1/6 of a Grade 5, 1 x G7, 2 x DPs, 3 x SOs, 2 x EO1s and 1 x AO).
- 6.3.4 The total NPC for the ten year analysis period is £131.6 million**

## 6.4 Option 4 - Transfer the function to the Department

- 6.4.1 In Option 4 the functions would transfer to a new Division in the Department, led by a Grade 5 and supported by a number of grade 7s. The main savings would be found in the corporate services department where the governance and accountability functions would disappear and there would be savings within HR, registry, audit and finance. All remaining policy and administrative work would transfer to the new division.
- 6.4.2 A major cost incurred with this option is the cost of capitalising the deficit within the current ACNI pension scheme. Staff of ACNI are members of the NILGOSC scheme. If the functions of ACNI were to be transferred to the Department these people would become civil servants would not be eligible for the NILGOSC scheme. Accordingly that scheme would seek a cessation payment which, depending on the numbers and salaries of the staff concerned, could run into millions of pounds. The 2013 IAS 19 statement shows a deficit of £3.753m. However, if the value of assets decreased while obligations increased, the deficit would also increase. A sensitivity analysis shows that an increase of 10% with the liabilities and a decrease of 10% in the assets would equate to an increase in the deficit of £2.4 million resulting in an overall deficit of £6.13 million.
- 6.4.3 **The total NPC for the ten year analysis period is £130.3 million (based on the current 2013 deficit figure).**
- 6.4.4 When considered over the ten year period, this would demonstrate that a transfer into the Department would save approximately £1.3 million.
- 6.4.5 However, the above cost analysis assumes that the pension deficit will not rise. Should the pension deficit change (as described in the paragraph above 6.4.2) a transfer into the Department would cost an additional £1 million. Based on past experience, the pension deficit is likely to increase.
- 6.4.6 **The total NPC for the ten year analysis period is £132.6 million (based on the deficit figure increasing).**

## 6.5 Summary of costs

	Description	Cost over 10 years	Comments
<b>Option 0</b>	Retain ACNI as an arm's length body	£131.6 million	Baseline costs
<b>Option 4</b>	Transfer the functions into DCAL	£130.3 million	Based on the pension deficit in 2013
		£132.6 million	The pension deficit if assets decrease by 10% & liabilities increase by 10%

## 7 Final Conclusions & Recommendations

7.1 The review examined all potential options for the future delivery of ACNI's functions. The following two options were shortlisted for further investigations:

***OPTION 0 - Retain as an Arm's Length body***

***OPTION 4 - Transfer the function to the core Department***

7.2 The review then examined the option against a multi criteria list which included a costing exercise. The results are summarised below:

	<b><u>Option 0</u></b> Retain ACNI as an Arm's Length Body	<b><u>Option 4</u></b> Transfer the functions into DCAL	<b>Preferred option</b>
Applying the Coalition Government three criteria (section 3)	ACNI does not meet any of the GB tests		Option 0
Arts delivery in other jurisdictions	England, Wales, and Ireland all delivered via public bodies.  Scotland has a different model (ref 4.4)		Option 0
Views from other stakeholders	71.4% agree that ACNI should be retained		Option 0
Non monetary analysis Section 8	Scored 830	Scored 570	Option 0
NPC (over 10 years)	£131.6 million	£130.3 million	Option 4
NPC (over 10 years) (with a 10% increase in liabilities and 10% decrease in the assets)	£131.6 million	£132.6 million	Option 0

### Recommendation

**ACNI should be retained as an Arm's Length Body (option 0).**