

**STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE IN ITS
CAPACITY AS TRUSTEE OF THE CALLISTER YOUTH CLUB ON
BEHALF OF WIRRAL BOROUGH COUNCIL**

29 JUNE 2017

REPORT TITLE	<i>CALLISTER YOUTH CLUB</i>
REPORT OF	<i>ASSISTANT DIRECTOR: LAW AND GOVERNANCE</i>

REPORT SUMMARY

- (a) This report brings the Committee up to date on developments since the decision made by Committee at its meeting on 6 July 2016.
- (b) Objections were received to the Committee's proposal to change the objects of the Trust when they were advertised in the local press on 23 November 2016.
- (c) Six residents of Birkenhead have offered to become Trustees of the Trust in substitution for the Council (which has a potential conflict of interest as a result of its use of the Trust's premises in 19 Argyle Street, Birkenhead).
- (d) The Committee is requested to determine whether it should retire from the Trust and if so what steps should be taken to appoint replacement Trustees.
- (e) Appendices 1 and 4 to this report contain respectively exempt information by virtue of paragraphs 3 and 1 of Part 1 of Schedule 12A of the Local Government Act 1972 namely information relating to the financial affairs of the Trust and information relating to individuals. The public may be excluded from that part of the meeting which considers those Appendices if the Committee resolves that the public interest in maintaining those exemptions outweighs the public interest in disclosing the information.

RECOMMENDATIONS

1. The Committee resolves that the Council should transfer its trusteeship of the Callister Youth Club to new Trustees to avoid a continuation of its conflict of interest over 19 Argyle Street, Birkenhead.
2. The Council re-affirms its decisions to pay into the bank account of the Trust an annual sum equal to the market rent for 19 Argyle Street (currently estimated to be £14,000).

3. The Council note the valuation obtained for the Trust's premises in Slatey Road, Birkenhead but defers any decision on its future disposal or use pending the appointment of new Trustees.
4. The Council defers any decision on a change to the objects of the Trust pending the appointment of new Trustees.
5. The Committee establishes a sub-committee to interview the six applicants who have offered to become Trustees of the Callister Youth Club and, if they are considered to be eligible and suitable, the sub-committee shall have the delegated powers to instruct the Assistant Director: Law and Governance to take the necessary steps to appoint all or any of them as Trustees in substitution for the Council.
6. If the sub-committee resolves not to appoint any or all of the six applicants as trustees it shall have the delegated authority to advertise in the local press and/or in any other appropriate way for candidates to be Trustees of the Callister Youth Club and to report the outcome to the Committee.

SUPPORTING INFORMATION

1.0 REASONS FOR THE RECOMMENDATIONS.

- 1.1 To avoid a continuation of the conflict of interest over the Council's occupation of the Trust's premises at 19 Argyle Street for the use of its Response Service.
- 1.2 The payment of the annual sum of £14,000 to the Trust for the Council's use of 19 Argyle Street is based on the market rent estimated by independent valuers.
- 1.3 A decision on the future use of Slatey Road will involve a complex consideration of a number of relevant factors and therefore the Council should not tie the hands of the future Trustees by making a decision now.
- 1.4 A decision on the change of the objects of the Trust should again be left to the new Trustees who will be responsible for running the Trust.
- 1.5 Although the six candidates for Trustees have completed questionnaires the Charity Commission's general guidance is that applicants to be Trustees should be interviewed by the existing Trustees prior to any decision on appointment in order to clarify any matters and ascertain whether there are any conflicts between the interests of the Trust and those of the applicant.

2.0 OTHER OPTIONS

- 2.1 It is possible for the Council to seek the consent of the Charity Commission to alter the Trust's objects but it is evident that this would be controversial and also delay the transfer of the Trust from the Council.
- 2.2 If the objects of the Trust were widened then subject to any consent required from the Charity Commission it would be possible to transfer the assets comprised in the Trust to another charity whose objects were similar in nature and scope to those of the Trust's amended objects. This would however be a protracted process and delay the transfer of the Trust from the Council as most local charities have wider objects than those of the Trust being either not limited to Birkenhead or to one sex.
- 2.3 It would be possible to appoint the six applicants to be Trustees on the basis of their replies to the questionnaire sent to them. General guidance from the Charity Commission does however recommend personal interviews.
- 2.4 It would be possible to advertise in the local press for candidates to be Trustees. There is however no guarantee this would produce a response (other than possibly from local charities interested in the future of the Trust properties). The six applicants have however volunteered their services, and their replies to the questionnaire indicate that they deserve to be considered by the Council as replacement Trustees in the first instance.

3.0 BACKGROUND INFORMATION

- 3.1 By order of the Minister of Education dated 11 February 1960 the Council was appointed as sole Trustee for the EF Callister Youth Club and the properties belonging to the charity set out in the order were vested in the Council as Trustee.
- 3.2 The objects of the charity are the promotion of the welfare of girls and young women resident in the area of Birkenhead.
- 3.3 There are two properties vested in the Council as Trustee.
- 3.4 There is a vacant piece of land in Slatey Road, Birkenhead consisting of old tennis courts which have been used in the past as a gardening/environmental project.
- 3.5 The other property is 19 Argyle Street, Birkenhead which is occupied by the Council's Response Service which provides advice, counselling and guidance to young people suffering from homelessness or alcohol/substance abuse or other problems regardless of their gender or residence in the Wirral.

4.0 RECENT HISTORY

- 4.1 At its meeting on 6 July 2016 the Committee (acting in its capacity as Trustee on behalf of the Council) resolved:
 - (a) to amend the objects of the Trust so that they be defined as "the promotion of the welfare of persons living within the boundaries of the Metropolitan Borough who are in need because of their youth";
 - (b) to obtain independent valuations from qualified surveyors of the rental value of 19 Argyle Street and the leasehold and freehold values of the property in Slatey Road;
 - (c) that the Council should pay the Trust the equivalent of a market rent for 19 Argyle Street;
 - (d) following receipt of the above valuations the Committee would consider the appointment of new Trustees of the Club, or the transfer of the properties to another suitable charity and the future use or disposal of Slatey Road.
- 4.2 Valuations of 19 Argyle Street and Slatey Road were obtained from Lambert Smith Hampton. Their report is contained in the Exempt Appendix No. 1 as its contents might prejudice any future disposal of Slatey Road.
- 4.3 The proposed changes to the objects of the Trust were advertised in the local press on 23 November 2016 (Appendix 2)
- 4.4 Objections were received from seven residents and Frank Field MP (Appendix 3).
- 4.5 Six local residents on their own initiative submitted their names as potential Trustees to replace the Council. They were sent questionnaires seeking information relevant to

their suitability as replacement Trustees. Their replies (received in February and March 2017) are attached in Exempt Appendix 4 (which contains confidential personal data relating to the applicants).

- 4.6 On 4 April 2017 I wrote to the Charity Commission seeking their advice on the Council's future course of action. They replied by email on 18 May 2017 giving general rather than specific advice. The correspondence is in Appendix 5.

5.0 FINANCIAL IMPLICATIONS

- 5.1 The Council will have to pay the Trust a market rent for its use of 19 Argyle Street, Birkenhead the amount of which will be determined by negotiation with the replacement Trustees.

6.0 LEGAL IMPLICATIONS

- 6.1 The Council should transfer its trusteeship to suitable replacement Trustees by reason of its conflict of interest over 19 Argyle Street.

7.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

- 7.1. None.

8.0 RELEVANT RISKS

- 8.1 Continued retention of the trusteeship by the Council could amount to a breach of trust by reason of its conflict of interest.

9.0 ENGAGEMENT/CONSULTATION

- 9.1 Consultation with the Charity Commission and the public over the proposals to amend the object of the Trust is described elsewhere in the report.

10.0 EQUALITY IMPLICATIONS

- 10.1 The amendment of the objects of the charity would remove discrimination based on gender and residence but such discrimination is not unlawful as long as the objects fall within the definition of a charitable trust as contained within Section 3 of the Charities Act 2011.

11.0 CARBON REDUCTION, PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 11.1 None.

12.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

12.1 The replacement Trustees could negotiate a suitable use of the Slatey Road premises with such groups should they decide that the disposal of the Slatey Road premises is not in the best interest of the Trust.

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APPENDICES

Appendix 1 (Exempt) Report of Lambert Smith Hampton
Appendix 2 Advertisement in local press
Appendix 3 Objections
Appendix 4 (Exempt) Replies to Questionnaires
Appendix 5 Correspondence with Charity Commission

REFERENCE MATERIAL

Recent correspondence on the future of the Trust other than documents that are exempt by reason of their confidentiality (eg information relating to individuals or the financial position of the Trust).

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Standards and Constitutional Oversight Committee	6 July 2016