

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 26 June 2018. Attendances:

Councillor Glazier (Chair)

Councillors Godfrey Daniel, Elkin, Simmons and Tutt

1. Lewes Public Library and Museum Charitable Trust and delegations for Charitable Trusts where the County Council is Trustee

1.1. The Charitable Trust was established by the Conveyance dated 21 June 1872. This originally related to the old library and museum at Albion Street, Lewes (the 'Original Library') when that property was conveyed '*on trust to permit the same premises and all buildings to be erected thereon to be and forever hereafter appropriated and used as and for a school of children and adults in drawing, painting, modelling, designing for architecture, manufactures and decorations and for no other purpose*'. This created a permanent endowment of the Original Library which became known as the Lewes School of Science and Art. By Orders made by the Board of Education in 1934 and 1956 the scheme was modified and extended to include 'Public library' and 'museum'. The County Council became the owner of the Original Library and museum by virtue of a transfer of functions under the Local Government Act 1972.

1.2. In 2008 the Council signed a Declaration of Trust ("2008 Declaration") after detailed consultation with the Charity Commission regarding the disposal of the Original Library. By the 2008 Declaration, the Council confirmed the current name of the charity as the Lewes Public Library and Museum (the "Charity"). East Sussex County Council also declared that the current Lewes Library at Styles Field ("Lewes Library") would be held on trust and used for the Charity in place of the Original Library.

1.3. The charitable use of the Library is 'use as a public library and museum for the safe custody exhibition and study of objects of educational artistic or scientific interest and such other collections and objects of a similar nature as the ...council may think fit'. This constitutes the charitable objects of the Charity. The original charitable objects were contained in the 1872 Conveyance and amended by the Board of Education Orders, then confirmed in the 2008 Deed.

1.4. An agreement has been entered into whereby from 1 July 2018, the back office staff employed by NSL Limited (the Council's parking enforcement contractor) will use non-public office space at Lewes Library, while Civil Enforcement Officers will use welfare facilities such as the staff kitchen, toilet and changing room. This arrangement will generate £22,000 per year in rent for the Charity over a lease term of seven years. As the gross income of the Charity will exceed the statutory threshold for registration (£5,000 per annum) there is a requirement to formally register the Charity with the Charity Commission.

1.5. For administrative efficiency it is proposed that whilst the decision to proceed with the new lease has been reached solely and exclusively on behalf of the Charity, for any ongoing work involving the Charity, governance arrangements be established to ensure the independence of the Charity and to ensure that there is no risk of any conflict of interest with the Council's other business.

1.6. The proposal is that:

- (a) the Council's Scheme of Delegations to Officers should apply to the Charity;
- (b) the day to day management and operation of the Charity be delegated to the Director of Communities, Economy and Transport ('Director of CET'); and

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(c) where any conflict of interest arises between the role of the Director of CET and the interests of the Charity, the decision will be taken by the Chief Executive.

1.7. The authority delegated to the Director of CET would be for the day to day management and operation of the Charity, and decisions in relation to the Charity must be taken in the best interests of the Charity, and not the County Council. Whilst the County Council as corporate trustee retains ultimate responsibility, the Director of CET's role would include (but not be limited to):

- (a) ensuring that all decisions on the property specifically and on the Charity generally are taken solely and exclusively in the best interests of the Charity;
- (b) ensuring that the Council as custodian trustee complies with its fiduciary duties and that there is no conflict of interest with other Council business or functions;
- (c) monitoring the receipt of all rental received by the Charity and ensuring that this is used solely for the charitable objects; and
- (d) taking any steps necessary to ensure that the Charity complies with all its legal and regulatory obligations including the preparation of annual accounts and (where required) an annual report/return.

1.8. To ensure transparency of decision making and administrative efficiency it is proposed that the Council's decision making arrangements set out in its Constitution applies to its role as Charitable Trustee as it does in relation to the exercise of its other functions.

1.9. There will be a requirement to prepare and file annual accounts, and it is proposed that these are reported annually to Cabinet in line with the current practice where the County Council is a Corporate Trustee.

1.10 The Committee recommends the County Council to:

☆ (1) approve the registration of Lewes Public Library and Museum Charity with the Charity Commission;

(2) approve the proposed governance and decision making arrangements for the Charity as set out in the report; and

(3) approve that the delegations for decision making set out in the Constitution (including those set out in Part 3 Responsibility of Functions, which includes delegations to members and officers) apply to decisions relating to the Charitable Trusts for which the County Council is Trustee as they do to other County Council functions

26 June 2018

KEITH GLAZIER
(Chair)