



REPORT OF: DIRECTOR OF LEGAL SERVICES
TO: COUNCIL FORUM
ON: 4th November 2010

SUBJECT: Charitable Funds Committee

1. PURPOSE OF THE REPORT

To advise Council for the need and establishment of a Charitable Funds Committee, which will support the Council in its capacity as sole corporate trustee.

2. RECOMMENDATIONS

2.1 To establish and make appointments to a Charitable Funds Committee, which shall support the Council where it is acting in the capacity as sole corporate trustee of a registered charity;

2.2 To approve the draft Terms of Reference governing the Charitable Funds Committee.

3. BACKGROUND

In order to facilitate the transfer of Turton Tower to the Council, the Charity Commission advised that in order to preserve its charitable status, the Turton Tower charity (Registered Number 513819) cannot be dissolved and recommended a transfer of trusteeship to the Council as sole corporate trustee.

Further to the Executive Board approval of 8 July 2010 the Council (by an Order of Charity Commission for England & Wales) was officially appointed sole corporate trustee of the charity. The Council in its capacity as sole corporate trustee has a duty to act in the best interests of the charity and requires a committee of members to support it in relation to day to day and operational matters.

A charitable funds committee consisting of 6 elected members will have delegated powers to make decisions on behalf of the Council in respect of all charities where it has been appointed as sole corporate trustee. The committee will be governed by the Terms of Reference in the Appendix.

As with other Council committees, appointments to the Charitable Funds Committee need to be approved by full council (normally by Annual Council in May).

4. RATIONALE

Turton Tower is a registered charity and any transfer of its property or assets require approval from the Charity Commission. In order to facilitate the transfer the Council was advised by the Charity Commission to become a sole corporate trustee of the

charity. The Council as sole corporate trustee will require a committee to support it and make decisions on its behalf. The Council currently does not have a Charitable Funds Committee to discharge the responsibilities of a corporate trustee.

5. FINANCIAL IMPLICATIONS

There are no known financial implications to the Council for the establishment of a Charitable Funds Committee as previously reported to Culture & Leisure Portfolio SPT on 21st June 2010.

6. LEGAL IMPLICATIONS

The Council is now the sole corporate trustee of Turton Tower charity (513819) and must act in the best interest of the charity. Like individual trustees, the Council as corporate trustee will have the same powers, duties, responsibilities and liabilities. The Council must comply with relevant legislation and follow guidance/procedures issued by the Charity Commission. As corporate trustee the Council must ensure that its property/assets are utilised as specified by the charity's objects clause.

The Council will need to keep charity property separate from its corporate property portfolio and manage properly any conflict of interests between its role and duties as a local authority and its role as a charity trustee. A separate charitable funds committee is able to discharge the Council's role of corporate trustee, and practical steps can be taken to manage any conflict of interests.

Appointments to the Committee will need be politically balanced under section 15 Local Government & Housing Act 1989.

Constitutionally, it is the function of full Council to agree composition and make appointments to committees, and agree their terms of reference.

7. RESOURCE IMPLICATIONS

Like other Council committees, the Charitable Funds Committee will require some administrative staff support, and also assistance from Finance relating to charity funds.

Chief Officer/Member

Contact Officer: Linda Comstive, Director of Legal Services (ext.5495).

Date: 20 October 2010

Background Papers:

TURTON TOWER

Charitable Funds Committee – Terms of Reference

Purpose

The Charitable Funds Committee (“the Committee”) exists to carry out functions delegated to it by Blackburn with Darwen Borough Council (“the Council”) which is the Corporate Trustee of the charity registered with the Charity Commission as Turton Tower (number 513819).

The Corporate Trustee has delegated day to day management of the Charity including delegable functions as defined in the Trustee Act 2000, section 11 to the Committee. The Corporate Trustee may at any time review and alter any aspect of the delegation.

Acting for the Corporate Trustee, the Charitable Funds Committee is responsible for the overall management of the charitable funds. The Committee is required to:

Oversee the management, investment and disbursement of charitable funds within the regulations provided by the Charities Commission and to ensure compliance with the laws governing charitable funds

Control, manage and monitor the use of the fund’s resources for the public benefit, having regard to the guidance issued by the Charity Commission.

Provide support, guidance and encouragement for all its income raising activities whilst managing and monitoring the receipt of all income.

Ensure that ‘best practice’ is followed in the conduct of all its affairs fulfilling all of its legal responsibilities.

Ensure that the Charity acts within its objects and charitable purpose as set out in the Schedule

Membership

The Committee is appointed by the Council (as Corporate Trustee) and comprises:

At least six elected members of the Council

The Committee may request the attendance of departmental officers as necessary.

Quorum

A quorum shall consist of any three members of the Committee. The Chair shall be appointed by the Council (as Corporate Trustee).

Meetings

The Committee shall usually meet four times a year at regular intervals or at other times at the request of the Chair.

Notice of each meeting including an agenda and supporting papers shall be forwarded to each member of the Committee not less than five working days before the date of the meeting

Members and regular attendees can suggest agenda items.

Duties and responsibilities

The Committee shall make proposals for the approval of the Corporate Trustee, implement the Corporate Trustee's decisions and report back to the Corporate Trustee on the following:

- Fundraising strategy
- Priorities for the application of the charity's funds, subject to annual review
- Investment strategy including any ethical criteria
- Appointment of external auditors

To keep under review and, where necessary, make proposals and report to the Corporate Trustee on the application of funds to ensure this accords with the Charity's purpose .

To assess and oversee the management of risks on behalf of the Corporate Trustee

To implement as appropriate, procedures and policies to ensure that accounting systems are robust and that all expenditure is reasonable and ethically appropriate.

Review and update annually these terms of reference

Evaluate its own membership and performance on a regular basis.

Review the Annual Report and Accounts prior to approval by the Corporate Trustee.

Reporting

Minutes will be circulated to members. The Chair of the Committee shall report annually to the Corporate Trustee by submitting a report to full Council, or more frequently if warranted.

SCHEDULE

Objects and charitable purpose are as set out in the First Schedule to a Conveyance dated 8th September 1931 and made between The Lady Nina Geraldine Knowles of the one part and The Urban District Council of Turton of the other part.

“to preserve and keep in good order and repair the said Mansion House upon trust to use the said hereditaments and premises for all or any of the following purposes namely museum, library, reading room, meeting room, offices for the work of the council or a public park or recreational grounds or such other public purposes as the council shall from time to time determine and to permit the public to have free access thereto at such times and subject to such regulations as the council shall from time to time determine”.

