



## NOTICE OF MEETING

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# Alexandra Palace and Park Board

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TUESDAY, 24TH FEBRUARY, 2009 at 19:30 HRS – PALM COURT SUITE 5, ALEXANDRA PALACE, ALEXANDRA PALACE WAY, WOOD GREEN, LONDON N22.

**Councillors:**

Councillor Pat Egan (Chair), Councillor Dilek Dogus (Vice-Chair), Councillor Bob Hare, Councillor John Oakes, Councillor Sheila Peacock, Councillor Neil Williams, Councillor Alan Stanton

**Non-voting representatives:**

Ms V. Paley, Mr M. Tarpey and Mr N Willmott  
(Alexandra Palace and Park Consultative Committee).

**Observer:**

Mr D. Liebeck (Chair, Alexandra Park and Palace Advisory Committee).

**AGENDA**

1. **APOLOGIES FOR ABSENCE**
2. **URGENT BUSINESS**

The Chair will consider the admission of any late items of urgent business. (late items will be considered under the agenda item where they appear. New items will be dealt with at items 11 & 16 )

3. **DECLARATIONS OF INTERESTS**

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest **and** if this interest affects their financial position or the financial position of a person or body as described in paragraph 8 of the Code of Conduct **and/or** if it relates to the determining of any approval, consent, licence, permission or registration in relation to them or any person or body described in paragraph 8 of the Code of Conduct.

**4. QUESTIONS, DEPUTATIONS OR PETITIONS ; TO CONSIDER ANY QUESTIONS, DEPUTATIONS OR PETITIONS RECEIVED IN ACCORDANCE WITH PART FOUR, SECTION B 29 OF THE COUNCIL'S CONSTITUTION (PAGES 1 - 4)**

**SEE ATTACHED**

- i. DEPUTATION REQUEST – L. RIVLIN – ESTABLISHING RIDING FACILITIES AT THE PALACE**
- ii. QUESTIONS ASKED TO THE BOARD FROM A.CHRISTOFIS**

**5. MINUTES (PAGES 5 - 50)**

- (1) To approve the minutes of the meeting of the Board held on 21 October 2008, and the special meetings held on 5 November 2008, and 6 January 2009(**ATTACHED**)
- (2) To approve the minutes of the Consultative Committee held 14 October 2008 (**ATTACHED**) and 17 February 2009; **TO FOLLOW**
- (3) To receive the minutes of the Advisory Committee held on 10 February 2009 (attached), **TO FOLLOW** and to consider any recommendations contained therein (**see ATTACHED MARKED A**).

**6. PARK UPDATE (ACTIVITIES) (PAGES 51 - 56)**

Report of the Park Manager Alexandra Palace - To update the Board on events and works within the Park

**7. NINE MONTHS RESULTS TO THE END OF DECEMBER 2008 AND FULL YEAR FORECAST 2008/09 (PAGES 57 - 64)**

Report of the General Manager Alexandra Palace- To advise the Board of the 9 months results to the end of December 2008.

**8. ACTION PLAN FOR REFORM OF GOVERNANCE OF APPCT (UPDATE NO 2) (PAGES 65 - 194)**

Report of the General Manager Alexandra Palace – To advise the Board of updates and progress in respect of the Governance Action Plan.

**9. BUDGET AND BUSINESS PLAN 2009 - 2010 - TO FOLLOW**

Report of the General Manager Alexandra Palace – To inform the Board of the proposed budget and business plan 2009/2010.

**10. CHARITY INDEMNIFICATION OF LONDON BOROUGH OF HARINGEY (PAGES 195 - 262)**

Report of the General Manager Alexandra Palace

**11. NEW ITEMS OF UNRESTRICTED URGENT BUSINESS**

To consider any new items of urgent unrestricted business admitted under item 2 above.

**12. EXCLUSION OF PUBLIC AND PRESS**

The following items are likely to be subject of a motion to exclude the press and public from the meeting as they contain exempt information as defined in Section 100a of the Local Government Act 1972; namely information in respect of which a claim to legal professional privilege could be maintained in legal proceedings, information relating to the business or financial affairs of any particular person (including the authority holding that information)

**13. MINUTES (PAGES 263 - 270)**

To approve the exempt minutes of the meeting of the Board held on 21 October 2008.

**14. TENDER FOR INSURANCE OF THE PALACE AND PARK (PAGES 271 - 310)**

Report of the General Manager Alexandra Palace - To advise the Board on the tender process for the insurance of the Park and Palace.

**15. TENDER OF THE SECURITY FUNCTION OF THE PARK AND PALACE - TO FOLLOW**

Report of the General Manager Alexandra Palace – To advise the Board on the tender process for the security function of the Park and Palace.

**16. NEW ITEMS OF EXEMPT URGENT BUSINESS:**

To consider any new items of urgent exempt business admitted under item 2 above.

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16 February 2009



**AGENDA ITEM 4 – ALEXANDRA PALACE AND PARK BOARD  
– 24 FEBRUARY 2009**

- i. **Deputation request – Ms L. Rivlin – Establishing riding facilities at Alexandra Palace**
- ii. **Questions 1-11 for the Alexandra Palace Board - 24 February 2009 from Ms Christofis:**

**N.B. Written answers to the questions will be TABLED at the meeting.**

- 1. Why have the Byelaws been removed from display at the Palace yet again, this time by the Friends of the Park? Please can you put them back!**
- 2. What is the program of [APCT \(main charitable body\)](#) Charitable events for 2009. What are they and where are they programmed?**
- 3. What is the current program of incremental 'fit for purpose' renovations for the coming year and what is the 5- 10 year plan for further 'beneficial' developments? Specifically, when will the theatre and all the other parts of the Palace that did not burn down or receive insurance money be made fit for human habitation and community usage by this Trust?**
- 4. Where is the literature to be found for the Beneficiaries of the Alexandra Palace and Park Trust outlining their rights, responsibilities and privileges? Where can we obtain a copy?**
- 5. What measures are to be put in place to encourage and ensure that it is the Beneficiaries of the Trust who benefit from the Trust and not the staff or other non related interest groups.**
- 5. What measures are to be put in (or are in) place to ensure that the lands and buildings that are held in Trust are protected from the wants of other non Beneficiary interest groups. e.g. 'The Friends' the staff or other non related local/interest groups. (Again I question the removal of the Byelaws by the 'friends'?)**
- 6. When will the soft furnishing, contents and artefacts be reintroduced and returned to the interior and exterior of the Palace Buildings where they have been removed or destroyed due to fire and neglect.**
- 7. Where is the literature to be found for the Beneficiaries outlining the role and remit of the [APTL \(trading arm\)](#), [APCT\(main charitable body\)](#)**

**and all the other numerous Palace staff** and what is the structure of both of these main internal residuary entities. Exactly how much money they have they raised and from where and how this money is spent on the building for the Benefit of the Beneficiaries of the charity? Where is the explanation for the Beneficiaries written, about these residuary entities and exactly how or in what way do they benefit the Palace and/ or Beneficiaries and where can we get a copy of this Literature?

**8. What measures have been (or will be) put in place at Alexandra palace in recognition of the actual real Allied Beneficiaries of the Trust and their wants, needs and requirements of the Trust during these difficult times?**

**9. What your charity sets out to do:**

- 1. general charitable purposes**
- 2. education/training**
- 3. medical/health/sickness**
- 4. disability**
- 5. relief of poverty**
- 6. overseas aid/famine relief**
- 7. accommodation/housing**
- 8. religious activities**
- 9. arts/culture**
- 10. sport/recreation**
- 11. animals**
- 12. environment/conservation/heritage**
- 13. economic/community development/employment**
- 14. other charitable purposes**

**10. Who your charity helps:**

- 1. children/young people**
- 2. elderly/old people**
- 3. people with disabilities**
- 4. people of a 'particular' ethnic or racial origin (Londoners)**
- 5. other charities/voluntary groups**
- 6. other defined groups**
- 7. general public/mankind**

**11. How your charity operates:**

- 1. makes grants to individuals**
- 2. makes grants to organisations**
- 3. provides other finance**
- 4. provides human resources**
- 5. provides buildings/facilities/open space**
- 6. provides services**
- 7. provides advocacy/advice/information**
- 8. sponsors or undertakes research**

- 9. acts as umbrella or resource body**
- 10. other charitable activities**

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**UNRESTRICTED MINUTES OF THE ALEXANDRA PALACE AND PARK BOARD  
TUESDAY, 21 OCTOBER 2008**

**\* PRESENT****DRAFT**

Councillors \*Cooke (Chair), \*Egan (Vice-Chair), \*Dogus, \*Hare, \*Oakes,  
\*Peacock and \*Williams

Non-Voting \*Val Paley, \*Mike Tarpey, \*Nigel Willmott  
Representatives:

Observer: Mr D. Liebeck (\*Mr Aspden substituting)

Also present:

Mr D. Loudfoot – General Manager Alexandra Palace  
Mr I. Harris - Trust Solicitor  
Mr M. Evison – Park Manager Alexandra Palace  
Ms J. Parker – Director of Corporate Resources – LB Haringey  
Mr T. Mitchison – Principal Lawyer – Legal Services – LB Haringey  
Mr C.Hart – Clerk – Cttees Manager – LB Haringey

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**MINUTE  
NO.**

**SUBJECT/DECISION**

<b>APBO32.</b>	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>Apologies for absence were received on behalf of Mr Tarpey, and Mr Liebeck (for whom Mr Aspden was observing), and for lateness from Councillors Hare, and Oakes.</p> <p><b>NOTED</b></p>
<b>APBO33.</b>	<p><b>URGENT BUSINESS</b></p> <p>The Chair advised that a matter would be raised during the exempt part of the proceedings under Item 14, in relation to contractual legal issues.</p> <p><b>NOTED</b></p>
<b>APBO34.</b>	<p><b>DECLARATIONS OF INTERESTS</b></p> <p>There were no declarations of interest stated in terms of items for consideration.</p> <p>During consideration of Agenda Item 13 – Leaseholder arrangements for the Cricket Club, Councillor Williams declared a prejudicial interest as a governor of the new Heartlands School, and left the proceedings during that part of the discussions.</p> <p><b>NOTED</b></p>
<b>APBO35.</b>	<p><b>MINUTES</b></p> <p>a. Minutes of the meeting of the Alexandra Palace and Park Board - 22 July</p>

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2008, and special meeting held on 26 September 2008.

**RESOLVED**

- i. That the minutes of the meeting of the Alexandra Palace and Park Board held on 22 July 2008, be agreed as an accurate record of the proceedings;
- ii. That the minutes of special meeting of the Alexandra Palace and Park Board held on 26 September 2008, be agreed as an accurate record of the proceedings, subject to the following amendments:

AP027

Page 21 – First para - 9<sup>th</sup> line

Delete 'either from one company or two/three'

Page 21 – 1<sup>st</sup> para - 13<sup>th</sup> line

Delete 'would look' and replace with 'e.g.'

Delete 'as to their the current set'

Page 22 – First full para 3<sup>rd</sup> line after "issue of the " add "the consideration of the "

Page 23 – 2<sup>nd</sup> para last line – replace 'top' with 'to'

Page 23 – 6<sup>th</sup> para – line 4 – delete 'been seen to not doing' and replace with 'be seen not to be doing so'

- b. Minutes of the Alexandra Palace and Park Consultative Committee – 15 July 2008, and 14 October 2008

**RESOLVED**

That the minutes of meeting of the Alexandra Palace and Park Consultative Committee held on 15 July 2008 be agreed as an accurate record of the proceedings, and that it be noted that the minutes of the meeting held on 14 October 2008 were not available for consideration.

- c. Minutes of the Alexandra Park and Palace Advisory Committee – 7 October 2008 and to consider any recommendations contained therein

The Clerk to the Board – Mr Hart – advised that the minutes of the meeting of the Advisory Committee – although in draft form, were awaiting clearance and therefore had not been circulated. However, there were circulated the Advisory Committee Resolutions of 7 October 2008 which had specifically requested that the Board consider this evening. Mr. Harris suggested that, in the absence of

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the full minutes of the Advisory Committee, it might be appropriate for the Board to postpone consideration and discussion of the Resolutions until the minutes became available. The Chair declined this suggestion and it was agreed to proceed.

The Chair thanked the Clerk for his brief explanation and referred the Board to the circulated deliberations of the Advisory Committee which related to its deliberations on 7 October 2008, The Chair advised that he wished the Board to respond on the resolutions and give responses at this point in the proceedings.

The Chair then asked Mr Aspden – who was observing on behalf of the Chair of the Advisory Committee to advise the Board of the resolutions for the Board to consider.

The resolutions are set out for ease of reference below:-

**(a) Future of the Asset**

**RESOLVED**

- i. That the Advisory Committee notes with considerable concern and disquiet the findings of the independent review into the granting of a Licence to Firoka to carry out the functions of the trading company, in its place, , and that this Licence seemingly ran counter to the previously expressed requirement that the Board at all times had to ensure that it obtained the best possible return reasonably obtainable from the assets of the Charity;*
- ii. That the Advisory Committee repeats its earlier concerns at the lack of consultation by the Board in respect of the proposed terms of the Lease with the Firoka Group, and that they be fully consulted, and that all relevant matters be disclosed to it, in advance of any decision, in respect of the Board's plans for the future of the asset; and*
- iii. That in respect of the planned consultation about the future of the Palace (the "Away Day") the Board widen the invitations to attend to representatives of both the Advisory and Consultative Committees, in order to obtain input from representatives of the local Community.*

Mr Aspden advised the Board that the circulated decisions of the Advisory Committee were divided into 3 separate sets of resolutions marked 'A' to 'C'.

In respect of resolution 'A' Mr Aspden commented:

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- that there had been considerable concern expressed in relation to the creation of the licence as detailed in the Walklate report
- That that the levels of consultation and communication between the Advisory Committee and the Board needed improving;
- That in terms of the proposed away day the Board considers widening the invitation to both members of the Advisory, and Consultative Committees to be involved in the brain storming.

In response the Chair asked that the Action Plan be amended to include reference to the Advisory and Consultative committees in its good code of governance, 2a. In terms of the away day it was a fact that the date had not been finalised but the Board were keen for it to take place before Christmas. In terms of invitees, the Chair felt that the core Trustees needed to sit down together with a blank canvas in order for the core Board members (that is those legally responsible as charity trustees) to discuss parameters and options for moving forward. Therefore, the initial away day should be for the charity trustee members of the Board, then widened at future away days. It was imperative that the Board was clear in its mind as regards the basis for future direction.

Councillor Hare shared the views of the Chair in terms of the need for the charity trustee Board members to come together initially and then widening the inviting of others to further future meetings.

In conclusion, the Chair summarised and it was;

**RESOLVED**

- i. That the Board notes the expressed concerns of the Advisory Committee as detailed and in the main reaffirms to the Advisory Committee the Board's previous resolutions with regard to the JR and decisions arising therefrom;
- ii. That attention of the Advisory Committee be drawn to the recommendations of the Walklate report in relation to an Alexandra Palace action plan on the governance arrangements for the Palace and the detail of certain recommendations would be effective in terms of future consultation with the Board's subsidiary bodies; and

(Councillor Oakes arrived at 20.10hrs)

- iii. That the Advisory Committee be advised that in respect of the initial away day session that this would be only for charity trustee Members but that the subsidiary bodies would be briefed as soon as possible after and that it was the intention of the Board to involve the subsidiary bodies in subsequent consultation meetings. be one outcome which would have a wider effect on the Board's relationship with the Advisory



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Committee;

- (b) **Alexandra Park Cricket Club**, in respect of the rent review of the Lease

**RESOLVED**

- i. That the Board consults the Advisory Committee in respect of the terms of any proposed sub-lease, following the variation of the Cricket Club's existing lease; and*
- ii. that consultation with this Committee should occur before any proposed sub-lease is considered by the Board, in order for the Committee to express its views to the Board.*

In respect of resolution 'B' Mr Aspden commented that the Advisory Committee would appreciate the opportunity of seeing more details re the terms of the sub-lease, as it was viewed by the Advisory Committee that this matter did relate and come within its ambit in terms of the Park.

The Chair asked that the General Manager and Trust Solicitor, and LB Haringey's legal representative respond to this point.

The General Manager – Mr Loudfoot advised that in this respect the Trust would be fundamentally acting beyond its charitable requirements and that in terms of a commercial lease arrangement this was not a matter within the Advisory Committee's ambit.

The Trust Solicitor – Mr Harris advised that Mr Loudfoot had correctly stated the legal position..

The LB Haringey Legal representative – Mr Mitchison advised and referred the Board to the terms of the 1985 Act and specifically in the 1985 Act Schedule 1 para 19 which gave the SAC powers and duties to advise the trustees on "the general policy relating to the amenities of local residents.", and the ambit of the Advisory Committee, and in stating the areas which fell within the ambit of the Advisory Committee, commented that it would be difficult to see how this request fell within it.

In thanking officers for their response, the Chair asked Mr Aspden if he could enlighten the Board of what exactly the Advisory Committee wished to see.

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In response, Mr Aspden commented that in terms of a sub lease this was in the Committee's view a further area of darkness and that in terms of matters within the Advisory Committee's ambit and that in his view the ambit of the Advisory Committee had been eroded over the years. He questioned the views expressed that it was not within the Committee's ambit to question uses within the park in terms of usage by 3<sup>rd</sup> parties without reference to the Advisory Committee, together with the matter of bad publicity in terms of proposed rent increases being imposed on the Club. It was also the case that there had been discussions regarding the future use by the planned school in the Haringey Heartlands with the LB Haringey Education service and possible use of the grounds by pupils of the new school. Mr Aspden commented that it seemed that there was a presumption on the part of the Board that if there was any doubt as to consultation then a matter was not referred to the Committee for consideration, and that in his view this was not the correct attitude or manner. It should in fact be the reverse and that if there was doubt then a matter should be put to the Advisory Committee. Mr Aspden commented that he was a little alarmed that officers had taken the view that matters of this nature did not fall within the Committee's ambit in terms of scrutiny.

Mr Mitchison further commented that the general policy of consultation was in relation to planning applications, and events which were significantly large to have an effect on the Park but that did not mean that every matter that the Board considered had to be referred to the Advisory Committee for its view/scrutiny. A sub lease arrangement was not a matter for consideration and that in terms of interpretation of the remit of the Advisory Committee within the Act it was the case that such matters were not in the purview of the Advisory Committee.

Councillor Hare commented that he did recognise some of the concerns of the Advisory Committee in terms of issues to be consulted upon and what was exactly within the Committee's remit. He felt that that in terms of broad issues for consideration the Act and interpretation in this respect was sufficiently vague.

Mr Loudfoot responded that it was clear that in terms of planning issues and events the remit of the Committee was clear but the matter of sub leases were not within the Advisory committee's remit.

Mr Aspden responded that commented that in terms of the Advisory committee's remit perhaps, within the general terms of issues raised it may be appropriate that the Advisory Committee at least have the intention of the sub lease

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explained to it in the public domain.

The Chair commented that in terms of the comment of 'being left in the dark' it was the case that in terms of the Firoka bid there had been considerable amounts of information given to the Advisory Committee in terms of negotiations, and indeed redacted parts of that proposed lease. However, there were not similarities in terms of this issue and that this agreement was entirely different and that therefore it was not matter for the Advisory committee's consideration. The matter of planning applications etc was within the remit of the Advisory Committee and indeed the Committee were consulted.

The Chair further commented that the matter of a sub-lease as commented on by the general manager was of a commercially sensitive nature and therefore a confidential contractual matter. It was a fact that such matters would not be in the public domain for consideration by any Council Committee, or indeed the Board. Whilst he appreciated that, the Advisory Committee did not agree with this fact full disclosure was impossible, and would remain so.

Councillor Egan concurred with the views expressed by the Chair, and added that in terms of general principles of consultation the Board would consult where appropriate.

Mr Harris advised that in terms of the general policy, there was an issue of general principle and the general principle would not include consultation or consideration of such matters.

Mr Aspden commented that in terms of negotiations in terms of the issues within the Advisory committee's ambit it was the case that the Board needed to be clear on what exactly it would/would not consult on as this seemed to be rather ambiguous.

Mr Harris advised that the Act required that the Advisory Committee be consulted on specific matters that the Board had to consider and that there were no obligations by the Board to take on Board any recommendations recommended to it by its Advisory committee. He reiterated his earlier comments that this matter was not within the remit of the Advisory committee. He also further commented on the rule relating to the general principles issue.

The Chair commented that in drawing this discussion to a conclusion that the Board rejects the recommendations of the Advisory Committee in respect of Resolution B and recognised the remit of the Advisory Committee in terms of the general principles of the Act.

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In response to clarification from the General Manager, the Chair commented that the general principles should be explained by the General Manager to the Advisory committee.

Mr Aspden commented that he regretted the outcome of the discussion and that there seemed to be a greater leaning of the Board to narrow legal advice than to open discussion with the local community.

The Chair commented that he did not accept the expressed view. It was the a case that that the Statutory advisory committee had a role within certain parameters however he was happy for the Board to further discuss and explore the wider involvement of the Committee in the future as part of the further discussions as to the future of the asset but that the remit of the Committee was as detailed in the Act and would remain so.

It was

**RESOLVED**

That the recommendations of the Advisory Committee be rejected, and the general principles of the Act and consultation be advised to the Committee by the General Manager at its next scheduled meeting.

- (c) **Legal clarification of advice given by the LB Haringey re:- the Gaming Licence (Occasional Use Notice) under section 39 of the Gambling Act 2005, and the Advisory Committee's remit**

**RESOLVED**

- i. *That the Board be requested to note that the Advisory Committee does not agree with the advice received from the LB Haringey's Legal Service that the above matter did not fall within its remit;*
- ii. *That the Advisory Committee intends to convene either a Special or Urgency Sub-Committee meeting in mid November 2008 to discuss the advice and that it has requested that the LB Haringey's Legal Service attend that meeting for the purpose of the Committee receiving the advice and having an opportunity to consider the same with the officers/ advisers*

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*concerned; and*

- iii. That the Advisory Committee intends to consider (following such meeting) obtaining a second opinion as to the legal advice tendered by the LB Haringey's Legal Service.*

The Chair commented that in terms of the recommendations he would ask Mr Mitchison for his view.

Mr Mitchison advised that the resolution had arisen as a result of the clarification sought by the Clerk to the Committee following a meeting of the Advisory Committee in February 2008 in respect of an "application" submitted to the Council for an "occasional use notice" (OUN) under s.39 of the Gambling Act 2005. This applied to any "track" or premises where "sporting events" take place or are intended to take place. There did not have to be any track as such or an existing use for gambling but the person serving the OUN must already have had a betting operating licence from the Gambling Commission in order to provide betting facilities at the premises. The person serving the OUN must be the occupier of the premises or a person responsible for the administration of the betting event there. The OUN authorises gambling for up to 8 days in a calendar year. It must be served on the Council as Licensing Authority and copied to the local Police. Provided no more than 8 days gambling is proposed, there is no right for the Council as Licensing Authority or the Police to refuse or object to the OUN.

Mr Mitchison advised that the event had given rise to the OUN just before Christmas 2007 for a betting ancillary to the long-established darts competition at the Palace. This was a one day event attracting no more than 2,000 people of whom only a minority might be expected to engage in gambling/betting.

Mr Mitchison again referred to the 1985 Act Schedule 1 para 19 which gave the SAC powers and duties to advise the trustees on "the general policy relating to...events....in the Park & Palace" and their effect on the local inhabitants and environment. Specifically within the remit are "events attracting 10,000 people at any one time" and proposals requiring planning permission. In para 20 the SAC is to try to ensure that no events allowed by the trustees are "a nuisance or annoyance or of detriment to the amenities of local residents."

Mr Mitchison advised that from this was it evident that the SAC is mainly expected to consider the "bigger picture" in terms of general policy on events and relatively large scale attractions. Seemingly, the exception to this was in "proposals which require planning permission" which could range from major redevelopment to quite small scale building operations or changes

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of use. However, there was no mention of “licensing”, “gambling”, “betting” or any other form of permit or control other than “planning” falling within the SAC’s remit.

Mr Mitchison further added that the reference to nuisance, annoyance and detriment to amenities also pointed to the conclusion that only the very noisy or large scale events were appropriate matters of concern for the SAC. In the case of the OUN, the event was indoors and not likely to attract very many more persons than those who would have come in any event for the darts competition.

Mr Mitchison further advised that that the Council had at that time been aware that there was an application for a permanent premises licence to permit track betting at the Palace made by or on behalf of Alexandra palace Trading Ltd. The purpose of this was to authorise the one day betting in connection with the annual darts competition on a permanent footing so as to avoid the need to serve an OUN each year. The permanent application was not of sufficient large scale nor sufficiently significant in terms of “policy” to fall within the SAC’s remit.

Mr Mitchison concluded that the advice had been given to the Advisory Committee and there would be little point in further attending a meeting of the Advisory Committee by him to reiterate this advice.

The Chair asked if there were any points of clarification.

Mr Aspden commented that he was not happy with the advice or information imparted by Mr Mitchison, who was clearly ‘parti pris’, and that he would be reporting back to the Advisory Committee. He pointed out that the request to Mr. Mitchison to meet with the Advisory Committee was made in good faith to avoid confrontation. Mr. Mitchison having declined this request, the Advisory Committee reserved the right to seek a second opinion.

Councillor Hare commented that as he earlier stated in his view there was a degree of haziness as regard to the remit and its interpretation. He did feel that it required a legal interpretation as the charitable activities

Mr Harris advised that this issue was not within the remit of the SAC.

The Chair responded that it was his view that the recommendations would be rejected by the Board, as not being within the remit of the Advisory Committee.

In response to comments of Mr Aspden Mr Harris advised that he did not see that any external advice would actually differ.

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	<p>Mr Loudfoot commented that in his view, it was an attempt by the Advisory Committee to 'land grab' and that it was most definitely not within its purview or remit.</p> <p>Mr Aspden commented that this was not the case and perhaps the General manger should withdraw his remark. Mr. Loudfoot declined to do so.</p> <p>The Chair explained that he did not wish the Board to get involved in a dispute between the Advisory Committee and a Council officer. Mr. Aspden explained that, since the Advisory Committee's remit was to report to the Trust through its Board and nobody else, it had no alternative but to address this to the Board.</p> <p>The Chair further reiterated his earlier comments in relation to the Advisory Committees' ambit but that he was happy for the further mechanisms for consultation to be discussed as part of the issue of the future of the asset.</p> <p>In drawing the discussion to a close, the Chair summarised and it was:</p> <p><b>RESOLVED</b></p> <p>That the recommendations of the Advisory Committee be noted and that the Advisory committee be advised that the Board was unable to respond as the points raised were not within the control of the Board, and that the LB Haringey's head of legal services representative would write to the Chair of the advisory committee setting out the legal position as stated.</p>
<p><b>APBO36.</b></p>	<p><b>QUESTIONS, DEPUTATIONS OR PETITIONS ; TO CONSIDER ANY QUESTIONS, DEPUTATIONS OR PETITIONS RECEIVED IN ACCORDANCE WITH PART FOUR, SECTION B 29 OF THE COUNCIL'S CONSTITUTION</b></p> <p>There were no questions, deputations or petitions.</p> <p><b>NOTED</b></p>
<p><b>APBO37.</b></p>	<p><b>PARK UPDATE (ACTIVITIES):</b></p> <p>The Park Manager – Mr Evison informed gave a brief introduction of the report.</p> <p>In particular, Mr Evison referred to para 6.8 and the matter of the proposed footpath across Redston Fields which had been requested to be located by the Warner Estate Residents Association. The Association at its AGM meeting on 7 July 2008 had voted to request the progression of their proposal for a hard surfaced footpath across Redston Field. The purpose of the path was to link the Park Avenue North entrance to the Lower Road. The Board was therefore being asked to authorise the progression of the proposal subject to budgetary and</p>

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planning constraints.

The Chair asked if there were any points of clarification.

Councillor Egan expressed his grave concerns regarding the proposed path in that the Redston Road Playing Field was a playing field and this use was being slowly chipped away. By having a path across the field, the likely future use of the field was in doubt as a football area such a loss not acceptable. In terms of consultation, Councillor Egan asked how wide this had been and also, how many people belonged to the Association, and the number of persons attending the AGM.

In response, in his capacity as Association member Mr Aspden advised that the Warner Estate Residents Association (WERA) covered 9 Roads with approx 650 households, and that at the AGM 80 persons had been in attendance from 60 households. Mr Aspden further stated that the turnout had been good.

With regard to the proposal, everyone on the WERA mailing list had been written to and notified of the proposal, and about half had responded. It was the case that some people had expressed concerns at the path but in the main, there had been clear support.

Councillor Hare commented that he was, to some degree, in support of Councillor Egan's concerns as to likely loss of the field as a playing field for sports, and commented that perhaps the design and location of the proposed path could be altered to be located around the edge of the field on the edge of the pitch following the line of planted trees.

The Chair commented that he would support the idea of a perimeter path hugging the tree line and shared the concerns of Councillor Egan.

The General Manager – Mr Loudfoot advised that it would be possible to agree to the principle of the path but that the actual location and width could be left to officers to finalise and report further on, given the expressed views.

In response to clarification from Councillor Egan Mr Loudfoot advised that the proposal had not been included in the HLF as it had not been within the Architect's vision.

In terms of the necessary planning consents required, the Clerk to the Board advised that members of this Board who sat on the Council's Planning Committee would need to declare an interest at this meeting and not take part in the discussions at the Planning Committee or visa-versa.

Councillor Hare responded that if an application were to be submitted to the Council's Planning Committee then he would declare an interest at that meeting and have no part in the discussion of the item or decision. Councillor Hare further commented that the proposed path would cross a unified open space and therefore the actual location did need some further consideration.

Ms Paley commented that the consultation should have been wider as it was not enough just to confine it to the areas as stated. She shared a number of views



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	<p>expressed in respect of the encroachment on to an existing open space and that resident pressure was attempting to squeeze usage as a football field. It was the case that occasionally there were motorbikes using the Northview Road entrance and path, and occasionally cars.</p> <p>The Chair then summarised and it was:</p> <p><b>RESOLVED</b></p> <ul style="list-style-type: none"> <li>i. that the report be noted;</li> <li>ii. that in respect of the proposals to locate a footpath across Redston Field the Park Manager be asked to review options for a path to be placed in the vicinity of the edge of the field as opposed to that currently recommended and report to a future meeting of the Board; and</li> <li>iii. that the advertising of the Actual Workshop for letting be agreed.</li> </ul>
<p><b>APBO38.</b></p>	<p><b>FIVE MONTHS RESULTS TO THE END OF AUGUST 2008</b></p> <p>The Chair, in asking for an introduction of the report, welcomed Helen Downie – the newly appointed Head of Finance at Alexandra Palace.</p> <p>In a brief introduction of the report Ms Downie advised the Board of the overall position at the 5 months point in the financial year 2008/09. There was currently a saving of £123k against the budget, though this trend was not expected to continue to year end but it was not expected to exceed the existing budget at year end. Overall income was £14k above budget and £109k below budget. Ms Downie further advised that in respect of APTL – management accounts had been prepared for the 5 months ending August 2008 and indications were showing that that the gift aid payment of £1 million would be achievable.</p> <p>Following responses to points of clarification the Chair summarised and it was:</p> <p><b>RESOLVED</b></p> <ul style="list-style-type: none"> <li>i. that the income and expenditure for the 5 month period to 31 August 2008 (as summarised in appendix I of the report) be noted; and</li> <li>ii. that the overall 5 month position and saving of £123k against the budget be noted, and that current saving trend will not continue to year end though there was no expectation to exceed budget by 31 March 2009.</li> </ul>
<p><b>APBO39.</b></p>	<p><b>AUDIT REPORT - REPORT OF THE INTERNAL AUDIT INVESTIGATION</b></p> <p>Following a brief introduction of the report by the General Manager – Mr Loudfoot the Chair asked if there were any points of clarification.</p> <p>In response to comments from Councillors Dogus, and Hare the Chair advised that the action plan was the ‘bedrock’ of how governance would be managed in</p>

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the future. Mr Loudfoot commented that between now and March 2009 officers would be looking to acting upon the action points as detailed and would be reporting progress at the February 2009 Board meeting. Between then and now, Members would receive briefing updates on progress.

The LB Haringey Director of Corporate Resources - Ms Parker also advised that the implementation of the action plan would require close monitoring by the Board, to ensure progress with agreed timescales.

Following a summary of the Chair it was:

**RESOLVED**

- i. that the report be noted, and the actions identified be cross referenced to reform the action plan;
- ii. that the need for development and the adoption of the framework and strategy documents for risk management, contract management, business planning and staff review and development be noted, and that the General Manager be authorised to further development and adoption of the framework and strategy documents; and
- iii. that further updates on identified actions be submitted to future meetings of the Board until such times that all actions are fully completed, as part of the governance action plan reporting process.

**APBO40. GOVERNANCE ACTION PLAN UPDATE**

The Chair reiterated his earlier comment under APB035 that point 2a be expanded to include reference to the Advisory and Consultative committees.

Following a brief introduction of the report by the General Manager, the Chair asked if there were any points of clarification from Members.

Mr Willmott commented on page 100 of the Action plan – ref 4d – and the comment in terms of the flow of information between the Trust and LB Haringey. Mr Willmott expressed his concerns and commented on the history of the Board in that since the 1980's it had been an established Committee of the Council, and then there had been a separation between the Council and Board as a Charitable Trust. The whole thrust had then been to act independently of the Local Authority. It now seemed that there was some going back on this arrangement in that the Local Authority was having further considerable involvement and control in the operation of the Charitable Trust. Mr Willmott advised that in his view, this was a dangerous precedent to set and in terms of legality, this could be open to challenge.

The Chair, in personally disagreeing with Mr Willmott's comments, advised that the Local Authority scrutiny clearly recognised the delineation and that had there been some level of this previously then a number of issues/problems that had arisen may not have done.

In response to a number of points of clarification the Trust Solicitor – Mr Harris

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	<p>commented that he would respond during the exempt part of the proceedings. However in terms of the issue of delineation the Board needed to be mindful and careful that the Charity was not being run by the Local Authority.</p> <p>The Chair then summarised and it was:</p> <p><b>RESOLVED</b></p> <ul style="list-style-type: none"> <li>i. that the progress with the action plan be noted; and</li> <li>ii. that the Board receives regular updates in the form of briefings etc in terms of progress in implementing the action plan and that any specific enquiries be submitted to the General Manager for response, and that the Board receives a quarterly monitoring report.</li> </ul>
<b>APBO41.</b>	<p><b>NEW ITEMS OF UNRESTRICTED URGENT BUSINESS</b></p> <p>There were no unrestricted items of urgent business.</p> <p><b>NOTED</b></p>
<b>APBO42.</b>	<p><b>EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p><b>RESOLVED</b></p> <p>That the press and public be excluded the from the meeting for consideration of Items 12-14 as they contain exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); namely information relating to the business or financial affairs of any particular person (including the authority holding that information).</p> <p>The Board adjourned at 21.45hrs and reconvened at 21.55hrs.</p> <p><b>NOTED</b></p> <p style="text-align: center;"><b>SUMMARY OF EXEMPT/CONFIDENTIAL PROCEEDINGS</b></p>
<b>APBO43.</b>	<p><b>MINUTES</b></p> <p>Agreed the exempt minutes of the meeting of the Board held on 22 July 2008, and special Board meeting held on 26 September 2008.</p>
<b>APBO44.</b>	<p><b>LEASEHOLDER ARRANGEMENTS FOR THE CRICKET CLUB</b></p> <p>AGREED RECOMMENDATIONS</p>
<b>APBO45.</b>	<p><b>NEW ITEMS OF URGENT EXEMPT BUSINESS</b></p> <p>Agreed recommendations as moved by the chair in respect of legal</p>

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	consultancy and related matters.
<b>APBO46.</b>	<b>TO NOTE THE DATE OF THE REMAINING MEETING OF THE BOARD FOR THE MUNICIPAL YEAR 2008/09 -24 FEBRUARY 2009</b> 24 February 2009

COUNCILLOR MATT COOKE

Chair

**MINUTES OF THE ALEXANDRA PALACE AND PARK BOARD  
WEDNESDAY, 5 NOVEMBER 2008**

**\* PRESENT****DRAFT**

Councillors \*Dogus, \*Peacock and \*Williams

Cooke, Egan, Hare, Oakes

Non-Voting Representatives: Ms V Paley, Mr M. Tarpey, Mr N. Willmott

Observer: Mr D. Liebeck

Also present:

**MINUTE  
NO.****SUBJECT/DECISION**

<b>APBO47.</b>	<p><b>ELECTION OF CHAIR FOR THE DURATION OF THE MEETING</b></p> <p>The Clerk to the Board – Mr Hart advised that in respect of the item for consideration as four members of the Board (Councillor Cooke, Egan, Hare and Oakes) were also Directors of Alexandra Palace Trading Limited, and as such they would have a prejudicial interest in the items for consideration and could therefore not take part in the meeting.</p> <p>As a result, given that there was neither the Chair or Vice-Chair present it was necessary for one of the three members present to Chair the meeting for its duration, and Mr Hart sought nomination for a Chair.</p> <p>Councillor Dogus nominated Councillor Peacock as Chair for the duration of the proceedings.</p> <p>There being no further nominations it was:</p> <p><b>RESOLVED</b></p> <p>That Councillor Peacock be appointed Chair of the Alexandra Palace and Park Board for the duration of the proceedings.</p> <p style="text-align: center;"><b>COUNCILLOR PEACOCK IN THE CHAIR</b></p>
<b>APBO48.</b>	<p><b>URGENT BUSINESS</b></p> <p>The Clerk to the Board – Mr Hart advised that there were no further items of urgent business relating to Items 4 and 6 on the agenda.</p> <p>Mr Hart further advised that as the agenda had omitted the item ‘apologies for absence’ he asked that the Board note that apologies had been received from Ms Paley, and Mr Tarpey, and also from Mr Liebeck – for whom Councillor Oatway was observing on his behalf. Apologies had also been received from Councillors Cooke, Egan, Hare and Oakes, for the reason stated in APB047.</p>

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	<b>NOTED</b>
<b>APBO49.</b>	<p><b>DECLARATIONS OF INTERESTS</b></p> <p>There were no declarations of Interests.</p> <p><b>NOTED</b></p>
<b>APBO50.</b>	<p><b>RESOLUTION OF THE DIRECTORS OF ALEXANDRA PALACE TRADING LIMITED - REPORT OF THE GENERAL MANAGER</b></p> <p>The General Manager Alexandra Palace – Mr Loudfoot – advised the Board that in respect of the resolutions of the Directors of Alexandra Palace Trading Limited – as APTL had decided not to have an AGM where such resolutions of the Directors of APTL would be considered by its shareholder – The Trustees of Alexandra Palace – it was necessary for the Trustees to now consider the draft resolutions as detailed in Appendices 1 &amp; 2 attached to the circulated report.</p> <p>Mr Loudfoot also advised that it would be necessary to then convey the considerations of the Board to the APTL Board meeting on 7 November 2008. APTL had as yet not considered their accounts – which it would do so on 7 November. The financial statements of APTL (circulated as exempt documents) would be considered by the APTL Board in tandem with the statements.</p> <p>In response to points of clarification from Councillor Williams the Trust Solicitor – Mr Harris advised that the Alexandra Palace and Park Board was not being asked to consider and approve the financial statements, nor the actual statements of the Directors of APTL. The locus of the Board was only to receive and note the resolutions of the Directors of APTL and authorise the General Manager Alexandra to notify APTL of this. Mr Harris also advised that it was necessary for the Board, in its capacity as shareholder of Alexandra Palace Trading Limited to give its approval to the reappointment of Deloitte and Touche LLP as auditors to APTL until 31 March 2009, and to delegate authority to the Head of Finance Alexandra Palace to agree the level of remuneration to Deloitte and Touche LLP for this period.</p> <p>Following further clarification by Board and the Clerk advising of the recommendations for the Board to resolve upon, the Chair summarised and it was:</p> <p><b>RESOLVED</b></p> <ol style="list-style-type: none"> <li>i. that in its capacity as shareholder of Alexandra Palace Trading Limited (APTL) the Board receives and notes the detailed resolutions proposed by the Directors of APTL (as detailed in appendices 1 and 2 of the circulated report) and authorises the General Manager Alexandra Palace to convey this action to the Directors of APTL prior to or during consideration of the said resolutions at a forthcoming meeting of APTL on 7 November 2008:</li> <li>ii. that in its capacity as shareholder of Alexandra Palace Trading Limited the Board gives its approval to the reappointment of Deloitte and Touche LLP as auditors to APTL until 31 March 2009, and delegates authority to the Head of Finance Alexandra Palace to agree the level of</li> </ol>

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	<p>remuneration to Deloitte and Touche LLP for this period; and</p> <p>iii. that the directors of APTL be asked to note and ensure that in future the legal advisers to APTL gives clear guidance which the directors will pass on to Alexandra Palace and Park Board with regard to matters that it requires the Board to consider.</p>
<p><b>APBO51.</b></p>	<p><b>EXCLUSION OF THE PUBLIC AND PRESS</b></p> <p>That the press and public be excluded the from the meeting for consideration of Item 6 as it contains exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); namely information relating to the business or financial affairs of any particular person (including the authority holding that information).</p> <p style="text-align: center;"><b>SUMMARY OF EXEMPT/CONFIDENTIAL PROCEEDINGS</b></p>
<p><b>APBO52.</b></p>	<p><b>RESOLUTION OF THE DIRECTORS OF ALEXANDRA PALACE TRADING LIMITED - REPORT OF THE GENERAL MANAGER</b></p> <p><b>AGREED</b> to receive circulated documents.</p>

Chair

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**MINUTES OF THE SPECIAL ALEXANDRA PALACE AND PARK BOARD  
TUESDAY, 6 JANUARY 2009**

\* Present

**DRAFT**

Councillors \*Egan (Chair), \*Dogus (Vice-Chair), \*Hare, \*Oakes, \*Peacock,  
\*Williams and \*Stanton

Non-Voting V. Paley, \*M. Tarpey, N. Willmott  
Representatives:

Observer: \*D. Liebeck

Also present: Mr D Loudfoot General Manager Alexandra Palace  
Mr I Harris Trust Solicitor  
Ms R Kane Director - Alexandra Palace Trading Limited (APTL)  
Ms H Downie Finance Manager – Alexandra Palace  
Ms J Parker Director of Corporate resources – LB Haringey  
Mr C Hart Cttee Manager – LB Haringey (Clerk to the  
Committee)

Ms S. Barrett Deloitte LLP

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**MINUTE  
NO.**

**SUBJECT/DECISION**

<b>APBO53.</b>	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>There were apologies for absence received from N Willmott and V. Paley, and for lateness from Mr Liebeck.</p> <p>The Chair welcomed Councillor Stanton as newly appointed Board Member, to fill the vacancy arising from the appointment of Councillor Cooke as Cabinet Member for Community Cohesion and Involvement at the LB Haringey, and also advised that he had been appointed Chair of the Board of trustees as a result of the changes in membership, and Councillor Dogus had been appointed Vice-Chair.</p> <p>The Chair also welcomed Ms Kane as newly appointed Managing Director of Alexandra Palace Trading Limited (APTL).</p> <p>NOTED</p>
<b>APBO54.</b>	<p><b>URGENT BUSINESS</b></p> <p>There were no items of urgent business.</p>
<b>APBO55.</b>	<p><b>DECLARATIONS OF INTERESTS</b></p> <p>There were no declarations from board members.</p>

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	<p>Ms Kane declared an interest as Managing Director of APTL.</p>
<p><b>APBO56.</b></p>	<p><b>APPOINTMENT OF DIRECTOR TO ALEXANDRA PALACE TRADING LTD</b></p> <p>The Chair asked for a brief introduction of the report.</p> <p>The General Manager – Alexandra Palace informed the Board that following the resignation of Councillor Cooke as Chair of the Board, and his subsequent resignation as Director of APTL on 18 December 2008 as required under the terms of the articles of association it was a requirement to appoint a Member of the Board of Trustees to fill that vacancy.</p> <p>The Chair proposed that, and it was seconded by Councillor Peacock that Councillor Dogus be nominated to fill the vacancy on Alexandra Palace Trading Limited.</p> <p>There being no other nominations it was:</p> <p><b>RESOLVED</b></p> <p>That Councillor Dogus be appointed as Director of Alexandra Palace Trading Limited with immediate effect.</p>
<p><b>APBO57.</b></p>	<p><b>CHANGE OF BANKING ARRANGEMENTS AND SIGNATORIES</b></p> <p>The Chair asked for a brief introduction of the report.</p> <p>The Head of Finance Alexandra Palace – Ms Downie reminded the Board that at its meeting on 22 July 2008 it had resolved to transfer its bank account from the Co-operative Bank to the Royal Bank of Scotland. The Board’s newly opened current account will be linked to that of the LB Haringey, who has already transferred its banking arrangements to RBS..</p> <p>The purpose of the report was to seek approval for the new bank mandate and for the Chair of the Board and the General Manager to sign the mandate on behalf of the Board of Trustees. Currently the overnight balance on the account is retained at £100,000 and this will continue.</p> <p>The Chair asked if there were any points of clarification.</p> <p>Councillors Stanton commented that as a newly appointed Member of the Board he wished to be advised whether the change was a direct swap and what benefits there would be as a result.</p> <p>In response, the General Manager – Mr Loudfoot advised that there were additional benefits to the Board in that the new account offered better fraud protection as well as automating the overnight sweep to/from the Council’s current account to maintain the balance at £100k. This is currently being done manually by Council officers..</p> <p>Councillor Williams commented on the fact that the proposed change had been</p>

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agreed by the Board in July 2008 prior to the credit crunch crisis and he referred to the issue of the financial standing of RBS since July 2008. Councillor Williams referred to the issue of deposits with RBS and asked whether he could be given assurances that the accounts would be safe. He stressed that up till the summer of 2008 he would not have questioned the change of bank but nobody expected that the credit crisis would have happened, hence his subsequent concerns.

Ms Parker responded that the account was consolidated with the LB Haringey's accounts. The Council is reviewing the issues relating to RBS on an ongoing basis to ensure that risks are kept to a minimum. Ms Parker stressed that it was a general question in the current climate as to where in fact a Local Authority should place its accounts.

Councillor Williams thanked Ms Parker for her clarification and assured the Board that his point of clarification had been to ensure that the process was being undertaken.

Mr Tarpey clarified that the overnight balance was £100K and Ms Helen Downie confirmed this.

Mr Loudfoot referred the Board to the fact that the report had not specified that historically, the Chair and Vice-Chair were the usual signatories to the account.

The Chair, in seeking the Board's approval to the recommendations felt that the signatories should be increased to 3, and suggested that Councillor Hare be the 3<sup>rd</sup>.

The Board welcomed the suggestion.

**RESOLVED**

- i. that approval be given to the new bank mandate for the Royal Bank of Scotland and that the Chair of the Board and the General Manager Alexandra Palace be authorised to sign the mandate on behalf of the Charitable Trust;. and
- ii. that Councillor Egan (Chair), Councillor Dogus (Vice-Chair) and Councillor Hare be appointed to act as signatories on the account.

**APBO58. APPROVAL OF ANNUAL REPORT AND CONSOLIDATED ACCOUNTS  
2007/2008**

In an introduction to the report the General Manager Mr Loudfoot commented that the 2007/08 accounts before the Board were the 12<sup>th</sup> annual set of accounts audited by a registered auditor. Mr Loudfoot reminded the Board of the process the previous year in considering the 2006/07 accounts and the fact that the Charitable Trust had been very late in approving them and had failed not only to meet the 31 January deadline but also the extension agreed by the Commission.. Mr Loudfoot informed the Board that the Charity Commission had now changed its procedures for reporting accounts on its website and any that had not been submitted by 31 January 2009 would be shown on the Charity Commission's

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website with a large red banner across the Charity's name indicating its failure to submit by 31 January.

Mr Loudfoot also referred to the requirement of the Board of Trustees to consider whether there were any declarations of interest or related party transactions that should be declared. If it were the case that none were required to be declared then each trustee was required to sign the relevant declaration to that effect, and each Trustee would do so at the end of the meeting.

The Head of Finance Ms Downie referred the Board to page 38 of the circulated report which details the incoming resources and resources expended for the year, highlighting the total income of £2.67m in 2008 compared with £7.1m in 2007, total resources expended of £5.6m in 2008 compared with £8.89m in the previous year and the closing deficit fund balance of £36.4m, an increase of £3m over the previous year.

Ms Downie also referred to the fact that the 2008 accounts included only four months trading results for APTL due to the temporary licence arrangement with Firoka, who also managed the ice rink during the licence period. For the first time, the accounts had been produced in accordance with FRS17, 'Retirement Benefits'. Accordingly, the pension fund deficit balance of £92k was included in the balance sheet.

Ms Downie explained that the balance sheet as detailed on page 40 of the report was a snap shot of the organisation's assets and liabilities at 31<sup>st</sup> March, and showed fixed assets reducing by £82K, stocks reducing by £53k, debtors increasing by £107k, short term creditors increasing by £1m and cash balances increasing by £734k.

The Chair thanked Mr Loudfoot and Ms Downie for their introduction and asked that Ms Barrett from Deloitte LLP give her report as the Trust's external auditors.

Ms Barrett advised the Board that the letter shown at appendix 3 of the report was the standard representation letter of the trust to Deloitte LLP and Para/point 10 detailed/referred to specific items, which were then clarified, particularly in relation to a possible claim by the Firoka Group.

(Mr Liebeck arrived at 19.24hrs).

Ms Barrett advised that the letter confirmed that all material items had been adjusted for. Pages 76 and 77 of the report showed the unadjusted errors but none of these were significant. Ms Barrett highlighted the Auditors' report detailed from page 79 and gave a brief clarification of those items detailed.

The Chair thanked Ms Barrett for her succinct and concise report.

The Chair then asked the Board if there were any points of clarification, or comment.

Councillor Hare commented on the fact that the past year had been a most extraordinary one in the history of the Palace. He referred to the licence entered into with the Firoka group and the consequences of this. Councillor Hare referred

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to the 6 points he had asked to be circulated earlier that day in relation to the report before the Board. He asked the Chair if he may ask the questions now, and the Chair agreed to this.

Councillor Hare referred to his first 2 questions relating to the Walklate report, and the further Walklate 2 (the findings of which were yet to be reported to the Board) and commented that in his view both should be submitted in accompaniment to appendix 3. Councillor Hare commented that whilst the actions of individuals as detailed in the Walklate report in relation to the temporary licence agreement were not fraud the agreement had cost a large amount of money.

In response, Mr Loudfoot commented that there was no need for the statutory accounts to include or append the text of the Walklate report and reminded the Board that the Walklate report had been considered in the public part of the Board meeting in September 2008, and the Board had agreed an action plan in response to a number of that report's findings. Mr Loudfoot advised that it would be possible to include a short reference to the work undertaken to bring the Board to a better footing, and this could added to the risk management section of the narrative in the Report of the Trustees.

The Chair felt that as the report was detailed and readily available on the Council's web site then a reference could be made to that location.

Councillor Hare commented that whilst a reference to the website may assist there needed to be some clear narrative on the Walklake report and that by including it this would show in a sense that the Charity had acted in terms of the temporary licence and that it had been dealt with and that the picture then painted showed that the Trust was moving forward positively. Councillor Hare further commented that the Walklate report had been exceptionally positive and very helpful in outlining what had happened in terms of the temporary licence..

The Chair asked whether the Board were in agreement to the placing of a reference to the Walklate report and point 3.15/3.16 of the risk management at page 30 of the report.

Mr Liebeck commented that if the Board were recognising the shortcomings of the licence then it was appropriate to make reference as suggested. Mr Liebeck referred the Board to page 74 1<sup>st</sup> point and quoted the point, and stated that the point was not correct as the Board of Trustees had not been consulted on the detail of the licence entered into and that the statement implied that the Board had in fact been party to arrangements entered into.

The Chair commented that the findings of the report had actually stated that no regulations had been breached.

Councillor Stanton commented that by way of balancing what was being commented upon it was the case that the Board was now looking forward and was learning lessons from past actions. In his view the Board needed to give a clear statement that left no ambiguity or question, by having 2/3 lines that succinctly reported the matter of the Walklake report.

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Councillor Hare confirmed that he was happy to have a reference in the narrative but he did think there did need to be reference to licence arrangement and that it had been very damaging.

The Trust Solicitor – Mr Harris advised the Board that in terms of the report before it, the making of, or alluding to reference of previous actions of the Board, given the possibility of proceedings against the Charitable Trust – if the Board draws attention to this issue it would in effect flag up a weakness. Given the sensitivities of the issue in question Mr Harris advised that it was a case of the less said the better, and the less attraction drawn the better. Mr Harris stressed that the accounts should not be focusing on the grant of licence.

The Chair asked that the exact wording to be inserted would be circulated for the Board's agreement.

Following further points of clarification regarding reference in the letter of representation and comment therein to the Walklate report Mr Tarpey clarified that this letter was a private letter which was not for public use and did not form part of the actual accounts.

Ms Barrett commented that it was important to understand the issue of the letter's detail and that the point about point 6 was understood and therefore it would be appropriate to have an acknowledgement of the issue but that would be all that was required.

The Board were in agreement to this reference.

Councillor Hare sought clarification in relation to the Walklate 2 report and where it would be reported to. Ms Parker confirmed that it would be reported to the Board when it was completed.

The Chair then asked that Councillor Hare ask his next question.

Councillor Hare referred to his 3<sup>rd</sup> question in terms of the breakdown of costs of the Firoka Licence and the need for a clear set of figures and statement was required.

Mr Loudfoot advised in response that he disagreed with Councillor Hare's assertion of their inclusion and that the breakdown of these figures was not needed within the annual report and suggested that the figures in question could be reported to a future meeting of the Board by the Head of Finance. Ms Parker then clarified that the second report from Mr. Walklate would cover the costs etc of the licence agreement.

Councillor Stanton commented that the advice of the Trust Solicitor should be heeded and that whilst he sympathised with the views expressed the advice given was clear professional advice which the Board should accept.

The Chair commented that as advised by the General Manager a report on the breakdown of the licence cost would be reported to a future Board meeting.

Councillor Hare commented as to whether there had been clarification as to the

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accuracy of the figures contained within the accounts, and also the reference to the trading partner, in respect of the accounts. Ms Downie advised that the figures had been thoroughly assessed during the audit process and were completely accurate. In terms of referring to the trading partner Mr Loudfoot commented that there had been some discussion during the account's drafting and that it had been thought appropriate to not make reference by name to the trading partner. However given that that information was known publicly there was no harm in actually report the name of the trading partner 'the Firoka Group' therein.

The Chair then referred Councillor Hare to his 4<sup>th</sup> question and asked him to clarify his question.

Councillor Hare advised that his question was in respect of the Ice rink and the profit reduction in its operation and that further clarification was required in terms of it being part of the Charity, then part of the Licence agreement with the Firoka Group, and then part of APTL during the 2007/08 financial year, and this needed to be detailed as a note within the accounts in order to clarify the loss in profit. He referred to page 45 and the point 5 – Incoming resources from charitable activities and that some reference should be stated at this comment.

Ms Downie and Mr Loudfoot clarified that at point 5 the income for the Ice rink was £108,426 in 2008, and £984,246 in 2007 and that therefore there could be some narrative within the accounts clarifying the source and breakdown of the 2007 figure. Councillor Hare felt that the figure of £287K post Firoka for the period January – March 2008 needed to be stated in point 5. Ms Downie commented that there could be a single line in the Trustees Report clarifying the cost breakdown.

The Chair then asked Councillor Hare to clarify his 5<sup>th</sup> question.

Councillor Hare advised that in terms of his 5<sup>th</sup> point of clarification this related to in addition to the APP debt and that in his view those costs of the licence which were not anticipated and approved by Trustees should be written off by the Council and not be added to the APP deficit owed to the Council. Councillor Hare advised that in his opinion in essence the Board of Trustees never actually approved the licence agreement in the form that it was entered into, at the point at which (in April 2007) there was reference to an agreement at a Board meeting, and that this fact had been reported on within the Walklake report, and that the licence agreement had been drawn up by officers and entered into, and although there had been reference to an agreement approved by the Board, it had never seen the contents of, or agreed to the resultant licence detail.

The Chair commented that in his view the Walklake report had not actually made that particular assumption and that that was a matter of conjecture. The Chair asked that Councillor Hare's assumption be further clarified.

Mr Harris referred the Board to its decision taken in September 2008 which had approved the commissioning of a further investigation by Mr Walklate, the results of this yet to be reported. In terms of the question of losses to the charity and the resultant likely action, and the reference to the second further investigation, Mr

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Harris advised that he was uncomfortable that reference and discussion was taking place in the public domain in relation to the outcome and that it was inappropriate for such discussions to continue when the finding of the report had yet to be concluded, and then reported to the Board. It was neither right nor proper to make reference to such findings at this juncture, and he urged the Board to desist from such discussions at this time.

Ms Parker referred to the shortfall of the Trust in 2007/08. It was the case that with shortfalls if they were shown for a particular year, and then the shortfall was subsequently recouped then the recouped monies were not shown against that reported figure for that year but added to the current year's income, and a note provided in the subsequent year's accounts.

In response to clarification from Councillors Hare and Williams Mr Loudfoot advised that there was not a viable alternative treatment and that there was no reason for an alteration to the accounting process.

Mr Liebeck commented that some felt that the profitability or not of the palace and park was debatable. Mr Loudfoot was able to refer to historic figures and clarify that without interest being taken into account the Charity had lost some £ 6.6m in the years 1997-2006. Mr Loudfoot also clarified that the last year an interest charge had been levied was the year ending march 2005.

Mr Liebeck also commented on the possibility of the trustees pursuing Firoka for some money back from the Licence period, Ms Barratt said that this at this point would not meet the requirements for income to be disclosed as a potential asset.

The Chair asked whether there was agreement to the narrative being amended to reflect the point. Councillor Hare felt that he was unable to comment at this stage as the deficit figure was uncommonly large and that there needed to be reference to the Walklate 2 report and its subsequent findings as it was the case that with a private company the shareholders would demand such clarification.

The General Manager commented that pages 46-48 gave adequate mention of the issue.

Following further discussions by the Board in relation to this particular issue, Mr Harris reiterated his earlier comments in relation to the mention of either Walklate report, the issue of the deficit and the potential legal claims.

Councillor Hare commented that there should be reference to the loss and the fact that it was not an issue of questioning the action of the Trust but that the steps were taking to address the deficit, which would be clarified further by the further report.

Councillor Stanton reiterated his earlier comments in that it was not appropriate to speculate on the likely findings of the further report and that such speculation was not helpful now in terms of the accounts.

In response to clarification from Councillor Oakes, Mr Harris commented that if the outcome of the recommendations of the Walklate report were to show a loss



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to the Charity as a result of the actions of officers then it would be for the Trustees to take a view as to the likely course of action in terms of proceedings etc. Any recouping of costs as a result of any such action would show in future accounting years and the debt then would show a reduction in that year. However, if no such costs were recouped, the accounts would remain as they were.

Councillor Oakes commented that he was therefore not in agreement as in his view the accounts were not accurately reporting the palace's correct financial position because of the deficit.

Ms Downie responded that the accounts did in fact accurately show the actual income received and expenditure incurred in the year in question.

In response to further clarification from Councillor Williams in terms of recovery of losses not in a sense relevant to the current set of accounts, Mr Harris responded that in broad terms this was a correct assumption and that if litigation was to result from the findings of the report, any recovered cost would be reported in future years.

The Chair asked Councillor Hare to state his remaining question. Councillor Hare referred to the cumulative deficit of £37.3 million and the decision of the Trustees in Mid 2008 to hold a meeting to consider making a request to the council that this be formally written off. Councillor Hare stated that this meeting had yet to take place and that some form of note needed to be added to the accounts to this effect.

Mr Loudfoot responded that there was no need to include such a note in this set of accounts, and that if the Board were mindful to consider and agree such an approach then the matter of how this would be reported to the Council would be considered. The matter of the issue was referred to in section 5.2 of the report.

Mr Harris concurred with the comment of Mr Loudfoot.

The Chair commented that the matter could be reported to a further meeting of the Board.

Following discussion by the Board as to the changes to the narrative, and a brief outline of the changes, the Chair agreed that the detailed wording of the resolution of the Board would be circulated by the Clerk to the Board to all Board members seeking their comments on the wording, and asking for a response by 12 January 2009.

The Chair then summarised each of the recommendations as detailed in the report and it was:

**RESOLVED**

- i. that, having reviewed the contents of the letter of representation, the Chair be authorised to sign the letter on behalf of the Charity for submission to the Charity Commission subject to the following amendment

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- a. that in respect of the letter of representations - paragraph 6 be amended to read as follows:

*You as auditors have been advised of the LB Haringey's commissioned 'Walklake' report which has been considered by the Board and its recommendations endorsed and adopted into an action plan.*

*We are not aware of any actual or possible instances of non-compliance with laws and regulations, the effects of which should be considered when preparing financial statements.*

- ii. that there being no matters or related party transactions to be declared the Trustees sign their relevant declaration to that effect;
- iii. that approval be given to the Annual Report and Consolidated Accounts for 2007/08 and the Chair be authorised to sign them on behalf of the Charity for submission to the Charity Commission , subject to minor amendments as follows:

*in section 2 page 27 :*

*Revise trustee details to reflect changes in board since the drafting of the report.*

*In section 3.15 Insert text:*

*The trustees have considered an independent report on governance and other issues entitled 'the Walklate report' and have agreed an action plan to implement the recommendations.. These documents can be downloaded from [http://www.minutes.haringey.gov.uk/Published/C00000105/M00003375/\\$ADocPackPublic.pdf](http://www.minutes.haringey.gov.uk/Published/C00000105/M00003375/$ADocPackPublic.pdf)*

*in section 5.1 – page 33*

*Para 4 remove phrase 'trading partner' and replace with 'firoka'*

*para 7 amend text to read:*

*With specific reference to ice rink income, it should be noted that the ice rink was initially in the control of the charity, then for a period was part of the Licence agreement entered into with the Firoka Group, and finally, for the remaining three months of the year formed part of the activities of Alexandra Palace Trading Limited (APTL),*

*The trading company activities for generation of funds are shown in note 4 of the accounts. Income from events is shown as £1,550,935, of which £287,455 relates to the ice rink.*

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*The charity's incoming resources from charitable activities are summarised in note 5 of the accounts. This shows income from the ice rink of £108,426.*

- iv. that approval be given to the Annual Return and that the Chair be authorised to sign it on behalf of the Board, and the General Manager be authorised to complete the annual return on line at the Charity Commission;
- v. that the contents of the management letter by Deloitte LLP in relation to the audit of the consolidated financial statements for the year ending 31 march 2008 be noted; and
- vi. that it be noted that the audit for the 2008/09 accounts will be undertaken by Deloitte LLP in accordance with the decision of the Alexandra Palace and Park Board of 19 March 2008, and that the future provision of audit of the accounts was in the process of being tendered for.

COUNCILLOR PAT EGAN

Chair

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**Draft**

**In attendance;**

Councillors: \*Cooke, \*Egan, \*Beacham, \*Dogus,\*Hare, \*Peacock and \*Williams

Nominated Members:

Alexandra Palace Allotments Association	*	Mr S. Ballard
Alexandra Palace Amateur Ice Skating Club	*	Mr M. Tarpey
Alexandra Palace Angling Association	*	Mr K. Pestell
Alexandra Palace Organ Appeal		Mr J. Apperley
Alexandra Palace Television Society		Mr S. Vaughan
Alexandra Palace Television Group		Mr J. Thompson
Alexandra Residents' Association	*	Ms C. Hayter
Bounds Green and District Residents' Association	*	Mr K. Ranson
Friends of Alexandra Park		Mr G. Hutchinson (Ms Gort deputising)
Friends of the Alexandra Palace Theatre		Mr N. Wilmott (Mr Richelle deputising)
Hornsey Historical Society	*	Mr J. O'Callaghan
Muswell Hill and Fortis Green Association	*	Ms D Feeney
Muswell Hill Metro Group	*	Mr J. Boshier
New River Action Group		Mr F.W.Clark
Palace View Residents' Association	*	Ms V. Paley
Union of Construction, Allied Trades and Technicians		Mr J. McCue
Warner Estate Residents' Association	*	Prof. R. Hudson

\*Members present.

Also In Attendance:

David Loudfoot - General Manager, Alexandra Palace

Mark Evison – Park Manager, Alexandra Palace

Clifford Hart – Clerk to the Committee – Committees Manager – LB Haringey

<b>MINUTE NO.</b>	<b>SUBJECT/DECISION</b>	<b>ACTION BY</b>
<b>APCC44.</b>	<b>APOLOGIES FOR ABSENCE</b>  Apologies for absence were received on behalf of Gordan Hutchinson, for whom Monica Gort was substituting, and from John Thompson.  <b>NOTED</b>	
<b>APCC45.</b>	<b>URGENT BUSINESS</b>	

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	<p>There were no items of urgent business.</p> <p><b>NOTED</b></p>
<b>APCC46.</b>	<p><b>DECLARATIONS OF INTERESTS</b></p> <p>There were no declarations of interest.</p> <p><b>NOTED</b></p>
<b>APCC47.</b>	<p><b>MINUTES</b></p> <p>(i) <b>ALEXANDRA PALACE AND PARK CONSULTATIVE COMMITTEE – 15 JULY 2008</b></p> <p><b>RESOLVED</b></p> <p>That the minutes of the Alexandra Palace and Park Consultative Committee held on 15 July 2008 be agreed and signed as an accurate record of the proceedings.</p> <p><b>MATTERS ARISING</b></p> <p>i. Ms Hayter referred to page 10 of the minutes and reference thereto of the lease and thought that she had requested that members be forwarded a copy.</p> <p>In response, the General Manager advised that this was possible and that this could be emailed or sent in hard form via the Clerk.</p> <p>ii. Mr O’Callaghan referred to reporting of comments of the Consultative Committee to the Board, similar to that of the Advisory Committee and whether the Board had any issue with this. The Chair responded that the Board had no issue at all with such practices.</p> <p><b>NOTED</b></p> <p>(ii) <b>ALEXANDRA PALACE AND PARK BOARD – 22 JULY 2008</b></p> <p>Mr O’Callaghan referred to the transfer of banking arrangements from the Co-op Bank to RBS by the Council and whether the Palace had also transferred its banking arrangements, or whether it was a separate account.</p> <p>The General Manager – Mr Loudfoot advised that the Palace’s banking arrangements were separate and that the palace was in the process of moving to another bank. Councillor Hare commented that electronic transferring was easier when transferring monies then different banks,</p>

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	<p>therefore it made sense for both to be with the same banker.</p> <p>In response to comments of Mr Richelle, regarding the likely revenue from a hotel development Mr Loudfoot advised that if a lease was granted for a proposed hotel site the only monies the palace would receive were in respect of ground rent and that the Trust would not profit from a hotel on the site.</p> <p><b>RESOLVED</b></p> <p>That the minutes of Alexandra Palace and Park Board held on 22 July 2008 be noted.</p>
<p><b>APCC48.</b></p>	<p><b>PARK ACTIVITIES UPDATE</b></p> <p>The Chair asked for a brief introduction of the report.</p> <p>In a succinct introduction to the circulated report the Park Manager – Mr Evison gave a brief update of recent activities carried out in Alexandra Park and answered points of clarification.</p> <p>The Committee then briefly raised the following points;</p> <ul style="list-style-type: none"> <li>• The pitch and putt course is an excellent facility but members felt operator's hut suffered with poor ventilation;</li> <li>• Difficulties with erosion of the Lower Road and water drainage, and the possible putting in of soakaways to balance off the drainage problem. The Park Manager informed the Committee that some preliminary drainage works would be starting on the 16 October. The success of this work would inform future drainage projects.</li> <li>• Possibility of wood sculptures to tree stumps</li> <li>• Whether a tree audit could be produced in leaflet form</li> <li>• Difficulties with pedestrian crossing at the west side of the Palace and response that a review would be carried out of the location as to the feasibility of a zebra crossing being placed there</li> <li>• Concerns at poor lighting around the Grove Car Park , and safety issues in the area between Alexandra Park Way and the Dukes Avenue exit, under the railway arch, and whether CCTV could be located there as a deterrent and the response from the General Manager that it was hoped to expand CCTV in other parts of the park, and lighting upgrading was being looked into.</li> <li>• Possible signage at Park entrances now that gantries were removed and speed restriction notices, and also concerns of the large number of sign posts in a round the park area which were distracting</li> <li>• Clarification as to the car parking arrangements in the park and the increase parking up the road to the palace now that the paddock parking area was closed. The General Manager responded that the paddock was only used at weekends and on show days and that had always been the practice</li> </ul>

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	<ul style="list-style-type: none"> <li>• That the pitch and putt signs were poor quality, the General Manager agreed to raise the issue with the operator of the pitch and putt course</li> </ul> <p>There being no further discussions it was:</p> <p><b>RESOLVED</b></p> <p>That the report be noted.</p>
<p><b>APCC49.</b></p>	<p><b>FORTHCOMING EVENTS</b></p> <p>In a brief introduction of the report the General Manager – Mr Loudfoot outlined the confirmed and provisional bookings for the Palace to April 2009. In particular the Fireworks event on 8 November, the Ice Rink panto, and Antiques Fare in December, and the Slamin Vinyl event in April 2009.</p> <p>The Committee briefly discussed the forthcoming Fireworks event on 8 November and the concerns previously expressed by Advisory and Consultative Committees regarding entrance closures and crowd control, and the need to ensure clear and visual information as to exist closures. The General Manager commented that the prime concern was always public safety and as such the security staff would have to close gates if the crowd density was too great. He also commented that the problem was difficult to manage as many of the local residents wanted to arrive at the very last moment which naturally coincided with the need to encourage the crowd to the lower areas of the park.</p> <p>In response to concerns as to whether bookings were down Mr Loudfoot advised that the events list was based on information compiled and was as up to date as possible. He was unable to give a comparison on previous year's events/bookings.</p> <p>Mr O'Callaghan referred to the recent 'Friends of Amma' event which he had visited after the Board meeting on 26 September and commented that it had been a most enlightening and interesting occasion, and would recommend the event.</p> <p>In conclusion the Chair asked that the General Manager note the concerns regarding crowd control and entrance closure in terms of the finalising of arrangements for the event on 8 November 2008.</p> <p><b>RESOLVED</b></p> <ol style="list-style-type: none"> <li>that the report be noted; and</li> <li>that the General Manager Alexandra Palace be asked to note the concerns regarding crowd control and entrance closure in terms of the finalising of arrangements for the Firework event on 8 November 2008.</li> </ol>
<p><b>APCC50.</b></p>	<p><b>FUTURE OF THE ASSET - UPDATE (REPORT OF THE GENERAL MANAGER)</b></p>



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The Chair referred to recent events in respect of the future of the Palace and the fact that the preferred bidder and partner – the Firoka Group had, on 18 August 2008, withdrawn its interest in the development of Alexandra Palace.

The Chair further informed the Committee that the Board, on 26 September 2008, had considered an independent review of the licence entered into with the Firoka Group – the Walklate report, which was readily available on the Council's web. The Board had endorsed the recommendation/findings of the review, as well as an action plan arising from the review in respect to governance arrangements. Copies of that report were available on the Council's web, and copies should have been available at this meeting but were not, and would be circulated to the Consultative Committee for their information.

With regard to the future of the Palace the Chair commented on the opportunity now open to the Board, given the history of the Palace over the past 25 years, to look at the pure potential of the Palace and he felt that there was an exciting prospect for the Board during the next 6 months, in conjunction with the Local community, residents, statutory bodies and interested groups, to look at a whole range of issues in respect of the future of the Palace. The Chair also commented that by having an open and frank dialogue this would not preclude any idea or proposal and he was confident that this process would be a positive and successful one. The structure of the existing trusteeship could be looked at, and whether there were options to be explored for the transfer of trusteeship in the future, and recognising what was the best interest of the Palace.

The General Manager – Mr Loudfoot also commented on the matter of the Firoka Group giving formal notice of withdrawing its interest as preferred bidder for the future development of the asset on 18 August 2008. The Board, at a special meeting on 26 September 2008, considered a number of matters relating to the future of the asset, including an independent review of the Licence arrangements entered into with the Firoka Group (a copy of that review was available for any Member at this meeting), and the resultant recommendations arising from that review recommendations regarding the future governance arrangements relating to the palace had been endorsed by the Board. Mr Loudfoot further advised that the Board had also discussed, and had agreed that an away day be arranged to discuss the future of the asset, and the way forward in the next 6/12 months.

Ms Hayter referred to the Independent report of which she had a copy, and commented that in her view it was evident that the advice of the Council's legal service should have been sought in terms of the entered into licence arrangements in order to have a balanced view, but this evidently had not been done. In seeking clarification as to the advice sought by Trustees Ms Hayter added that it was the case that the Board had undergone a number of membership changes over recent years and therefore there was not a large historical level of experience.

In response to the comments of Ms Hayter, the Chair advised that there were evident and recognised issues regarding the potential for Board of Trustees roles conflicting with those of a Councillor, and the fact that the trust was a charitable organisation. The Independent review did indeed address this issue and

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recommended a number of actions in relation to the governance arrangements to assist the Board, and that the action plan was designed to ensure that the Board never found itself in this position again in the future.

Mr O'Callaghan to the comments of the Chair in relation to difficulties and tensions/conflicts of trustees/Councillors and welcomed the assessment/review of roles. He particularly referred to the details of the entered into licence and that in his view this licence had been drawn up by the then General Manager – Mr Holder at the behest/bidding of Mr Kassam. It was the case that such events surrounding this were astounding and that both the Board and the Council had neither been aware of the terms of the licence or consequences of such an agreement. In his view, there were evident fraudulent actions that needed to be addressed.

The Chair responded that whilst it was the case that the actions of individuals were unclear and contradictory, as referred to in the independent report, with regard to the reference to possible fraudulent actions he stressed the need for caution in expressions specifically about individuals. In terms of the role of the former consultant/advisor, the Chair reminded the Committee that investigations were not as yet complete.

Councillor Hare commented that the Board had indeed agreed to have a further special meeting to look at the legal advice given in relation to the licence arrangements.

In response to clarification from Prof Hudson in relation to the future development of the asset and whether the holistic approach would still be pursued both the Chair and Mr Loudfoot commented that the whole development of the Palace over a 25 year history would be examined in order to assess and move forward and in doing so start with a blank canvass, engaging with community groups, interested parties etc to work together in forming ideas and concepts. It would indeed be a grave mistake to not learn from the difficulties of the past 25 years.

Councillor Egan also commented on the difficulties referred to in terms of the conflicts of Trustees in acting as Trustees as opposed to elected Councillors. It was the case that politics had evidently come into play on both sides of the political spectrum and that there had to be a non political approach and a frank and open dialogue in the future.

Mr Ballard referred to the consequences of the independent review and its finding and that in his view it seemed evident that the Trustees had not been asked to seek the view of either the Trust Solicitor or any other person. It was not a case of any incompetence but a fact that no such opinion had been sought. It was also the case that a number of the actions alluded to had indeed not been before the Trustees. In his view, the holistic approach was probably not a runner now and the whole future of the asset needed to be re-examined. He also felt it was appropriate, given the evident conflicts of trustees, to examine the Trusteeship of the Board and consider enhancing/widening participation.

The Chair reiterated his earlier comments in respect of future governance arrangements and the review of the role of the Trustees.

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Councillor Hare commented on the extraordinary and positive performance of APTL since the Firoka Licence had been terminated in January 2008. Given the level of decline in business during the period of the former licence arrangement, the question of why such a licence was allowed to operate for the time period needed clarification together with the actions of the then General Manager and Chair and the lack of consultation with the Board in terms of those actions.

In response to points raised by Councillor Hare, the Chair advised that actions taken had been disputed by the 2 individuals concerned which would be the subject of further clarification. Councillor Williams reminded the Chair that three other individuals as detailed in the report had also confirmed that this was the case.

Councillor Hare commented that in terms of the commissioned report and its findings it was clear that there were wider ramifications in terms of the detail of the licence and the decision reached by the Board in April 2007 and the resolutions of that meeting had no way given approval to entering into the agreement that had resulted in the licence with the Firoka Group. Councillor Hare commented that he had written, together with Councillor Williams, to the Chief Executive of the LB Haringey who had advised that they make a Freedom of Information request (Fol) to their own Board – Alexandra Palace to obtain details of the licence agreement. Councillor Hare advised that the commissioned report was remarkable in its findings but that the point should be made that it was a report commissioned by the Local Authority, and not Councillors.

Mr O'Callaghan commented on the issue of Mr Kassam's possible claims to sue the trustees and that in his view there was no basis for such a claim for loss of money. He added that the claim would never reach the Court of Chancery/High Court. However the Save Ally Pally Group would be more than happy to assist the Trustees in fighting any such claim against beneficiaries.

In response to Mr O'Callaghan and clarification by Ms Hayter Mr Loudfoot advised that the only suggestion of a claim had been at the point of Firoka's formal letter of withdrawal in August and that it should be noted that nothing further regarding a claim had been received since that time. The Chair added that the statements in the press – in the Evening Standard it had been quoted that Mr Kassam had said that had commented that the Palace would be hearing from his Lawyers. To date nothing had been received and any further rumour was.

In clarification to points from Mr Ballard as to why the process had finally failed, Mr Loudfoot advised that it was viewed that the Firoka Group had grown tired of waiting in terms of the further issues to be resolved and had therefore walked away.

In conclusion, the Chair thanked the Committee for its contribution to the debate.

**RESOLVED**

That the update be noted.

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APCC51.	<p><b>ITEMS REQUESTED BY NOMINATED REPRESENTATIVES</b></p> <p><b><i>ITEMS RAISED BY J. O'CALLAGHAN ON BEHALF OF HORNSEY HISTORICAL SOCIETY</i></b></p> <p>1. Road through the Park:</p> <p>(a) please could the General Manager explain why there are no longer signs at the entrances warning that the private road through the park is closed to all commercial vehicles (other than for access and buses)</p> <p>(b) If the trustees no longer wish to enforce this ban, have funds been made available to cover the extra repairs to the road this will entail?</p> <p>Mr O'Callaghan, in stating his questions (a) &amp; (b), gave a brief history of the Park road in that up until the Second World War there had been no through road between Muswell Hill and Wood Green. There was no justification or requirement of the Palace to up keep the road in terms of commercial vehicle usage and there the act also did not make such provision. Therefore, as the road was in fact a private road the only vehicles using the road should be private vehicles. The palace should be seeking funding externally for its up keep given that commercial vehicles use the road.</p> <p>In response, the General Manager – Mr Loudfoot, advised that in terms of the history it was a fact that the road at each end of the palace had been joined for the use of buses following the demise of trams.</p> <p>In terms of signage, this had been updated following the removal of the gantries and there was permanent signage now. There were no other funding streams open to the Palace for funding and maintaining the road. The budget allocation for roads and paths within the park was in the region of £50K annually.</p> <p>In response to further points of clarification the Chair asked officers to report back further to the Committee, but given the nature of the issue this would not be a matter to be discussed at the away day.</p> <p>Mr Tucker gave a resume of issues relating to Crystal Palace and the development issues, which in his view had a parallel to Alexandra Palace. The Chair thanked Mr Tucker for his contribution.</p> <p>In response to clarification from Prof. Hudson as to the overall running costs for maintaining the palace the General Manager advised that this was in the region of £750K per annum.</p> <p>The Chair also responded to the points of clarification in terms of the away day attendance by advising that in the first instance the session would be for trustees only, but that further sessions would possibly involve representatives from both the Consultative, and Advisory Committees.</p>

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**NOTED**

2. The report into the licence to Firoka (available on the council's website):

Will the trustees consider that one lesson from these events is that most ordinary Haringey councillors appointed to the Board are out of their depth (and it is unreasonable to expect them not to be) in dealing with and trying to monitor negotiations with a company such as Firoka?

3. Will the councillor/trustees consider that the governance of the charity, whose beneficiaries are the people of London, accept that trusteeship should now revert to reflecting this?

If not will they at least accept that an historic building and a local park needs regular grants, which should no longer be dressed up as "losses"?

The Chair responded that the questions asked had been answered during discussions during the meeting.

**NOTED**

***ITEMS RAISED BY V.PALEY ON BEHALF OF THE PALACE VIEW RESIDENTS ASSOCIATION***

**ALEXANDRA PALACE ICE RINK**

1. Estimate of how much longer it will stay open before major work expenditure forces closure;
2. A vague recollection of mention, some time ago of EU regulations which require replacement of the cooling system due to carbon omissions or some sort of pollution? Was the deadline 2010?
3. Invitation to the Save Ally Pally Group to present their proposals for keeping the ice rink open following on from (i) & (ii) above.

The General Manager – Mr Loudfoot advised in response, that the plant cooling system was now hugely out of date and now had approx 2 years of life left.

Under the current EU regulations it was a fact that the existing plant would be ruled obsolete and that after 2012 it was probable that even recycled gas would no longer be available and then it would be the case that a new cooling plant system would be required.

Mr Loudfoot also referred to the floor of the rink having moved and explained that it was not possible to say how long before a new floor would be needed but that it would make sense to change the plant and the floor as one package.

Mr Loudfoot and Mr Tarpey referred to the existing and possible commercial usage of the ice rink and that this was and would continue to be explored by APTL who now had the management of the rink. It was a recognised fact that the Ice Rink was of huge importance to local people and it had made a considerable

**MINUTES OF THE ALEXANDRA PALACE AND PARK CONSULTATIVE COMMITTEE.  
TUESDAY, 14 OCTOBER 2008**

	<p>contribution to the Palace. There was a possibility of relocating the Ice-rink to the pavilion car park area on a temporary basis when and if the existing rink was to be closed for a lengthy repair but Mr Loudfoot had not as yet calculated the financial implications of this option.</p> <p>In terms of asking for any group to give a view as to the future running of the Ice Rink it was felt by the Chair, and Mr Loudfoot that at this stage it would be premature for any organisation or individual to give a presentation.</p> <p><b>NOTED</b></p>
<p><b>APCC52.</b></p>	<p><b>ANY OTHER BUSINESS</b></p> <p>i. TV Studios</p> <p>Mr Tucker commented on the need for the Away day to also discuss the future of the former BBC Studios given the occupation of the BBC from 1936 to 1981, and that the new Governing Body of the BBC should now be prevailed upon to give financial contribution thereto.. The BBC was now governed by a Trust and that it would be appropriate for this Trust to write and seek some level of support, and making good the overall damage and alterations made to the SE wing during the BBC's occupation. There had been some vocal support by the current Director- General – Mark Thomas to the development of a museum and therefore such support should be encouraged. Mr O'Callaghan commented that he thought that the SE wing should be developed as an exhibition centre.</p> <p>The Chair thanked Mr Tucker and Mr O'Callaghan for their comments and advised that the suggestions would be taken into account by the Board when assessing the way forward for the future of the Palace.</p> <p>ii. Fishing issues</p> <p>Mr Pestell referred to issues relating to the lake. The original lottery bid included a proposal to remove wooden boards from the lake and Mr Pestell was worried that this had been paid for, but not carried out. He also report that new shrubs around the fishing area have been stolen.</p> <p>The Parks Manager Mr Evison gave an undertaking to look into the issues, the General Manager reminded the committee that some of the refurbishment items had been altered as the scheme progressed and he was sure that if an item was charged then it would have been completed. He thought it was likely in this instance that the work had been deleted from the programme.</p>

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<b>APCC53.</b>	<b>TO NOTE THE FOLLOWING REMAINING DATE OF THE CONSULTATIVE COM FOR THE MUNICIPAL YEAR 2008/09!</b> 17 February 2009.

COUNCILLOR MATT COOKE

Chair

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**ATTACHMENT 'A'**

**Alexandra Palace and Park Board – 24 FEBRUARY 2009**

**RESOLUTIONS of the Alexandra Park and Palace Advisory Committee  
("SAC") dated 10th FEBRUARY 2009**

**(a) the interaction between the Alexandra Park and Palace Board and  
the Statutory Advisory Committee, and Consultative Committee**

**RESOLVED**

- i. That the Advisory Committee, in welcoming the views of the Chair of the Alexandra Palace and Park Board as expressed at the commencement of the meeting, in respect of talking individually with Members of the Statutory Advisory Committee, and also the Consultative Committee, asks that the Board considers the concept of having up to 2 joint meetings a year with both the Advisory Committee and Consultative Committee to talk about common issues and concerns in relation to the Park and Palace, in either an informal or semi formal basis;
- ii. That the Advisory Committee requests the Board's agreement, in terms of any future proposals for recreation or leisure activity /uses of the Park and specifically in relation to the new Heartlands School, that the Board seeks the views and advice of the Advisory Committee; and
- iii. That in respect of (ii) above the Board be referred to the Advisory Committee's remit, namely to assist and advise the Board to achieve its objectives within the Alexandra Palace and Park Act 1985, and it is not the intention of the Advisory Committee to hinder the Board in its management and operation of the Park and Palace;

**(b) Alexandra Park entrance at Muswell Hill**

**RESOLVED**

That the Board be asked to consider exploring a joint funding venture in conjunction with the local Community and external funders in respect of revamping and improving the entrance to the Park at Muswell Hill including a newly designed bridge and path.

- (c) **Legal clarification of advice given by the LB Haringey re: the Gaming Licence (Occasional Use Notice) under section 39 of the Gambling Act 2005, and the Advisory Committee's remit**

**RESOLVED**

That in noting the written advice of the LB Haringey's Legal adviser that the Board was not obliged to consult the Advisory Committee regarding the granting of the gaming licence, with which it does not concur, the Committee requests the Board to consider, as part of its relationship and arrangements with the Advisory Committee, that in future it be consulted in respect of such applications as a matter of course.

- (d) **The proposal for an all-weather path to replace the present informal, and very muddy, desire line from the top of Park Avenue North across the Redston Road playing field and the old race-course to join the Lower Road at the eastern end of the car park**

**RESOLVED**

That the Alexandra Palace and Park Board be asked to note that the Alexandra Park and Palace Advisory Committee endorses the proposal of the Warner Estate Residents Association for an all-weather path to replace the present informal, and very muddy, desire line from the top of Park Avenue North across the Redston Road playing field and the old race-course to join the Lower Road at the eastern end of the car park, and requests that the Board gives consideration to and approves the proposal as outlined.

Agenda item:

**Alexandra Park & Palace Board**

**On 24 FEBRUARY 2009**

Report Title: **PARK UPDATE (ACTIVITIES)**

Report of: **Mark Evison, Park Manager**

**1. Purpose**

- 1.1 To inform the Board of the recent activities carried out in Alexandra Park.
- 1.2 To update the Board on the recent interest in 'the Actual Workshop'.

**2. Recommendations**

- 2.1 That the Board notes the report.
- 2.2 That the Board considers the proposal for a new footpath across Redston Field and the old race course and advises officers if they wish to progress this initiative.
- 2.3 That the Board considers the concepts for the Actual Workshop, and advises if any are deemed unsuitable for inclusion within the park.

Report Authorised by: **Mark Evison, Park Manager:** .....  .....

Contact Officer: **Mark Evison, Park Manager,  
Alexandra Park & Palace Charitable Trust, Alexandra Palace Way,  
Wood Green N22 7AY. Tel No. 020 8365 2121.**

**3. Executive Summary**

- 3.1 This report details the activities and projects that have taken place in the park.
- 3.2 Proposals have been made for the Actual Workshop building for various community and business uses.

**4. Reasons for any change in policy or for new policy development (if applicable)**

- 4.1 N/A

**5. Local Government (Access to Information) Act 1985**

- 5.1 No specific background papers were used in compiling this report.

**6. Description**

6.1 Warner Estate Residents Association have made a proposal for a new hard-surfaced path across Redston Field and the old race course. This proposal was discussed at the recent Statutory Advisory and Consultative Committees.

6.2 Following those discussions, the Board are asked to decide whether this proposal should be included in the forward plan for the park.

**Park Events**

6.3 The Conservation Tasks are continuing over the winter. The overgrown vegetation around Redston Pond has been cleared. Weed species were removed and native species were coppiced so they regrow as a shrub layer.

6.4 The Lakeside Café will be hosting a free outdoor art exhibition in May 2009. This follows the successful event last year and provides a great opportunity for park users to experience site-specific art created by local artists.

**Actual Workshop Building**

6.5 Following a number of inquiries the Workshop building in the Grove has recently been advertised to let.

6.6 The concept proposals received are as follows:

- community café with arts & crafts activities
- training centre for outdoor sports instructors
- children's soft play and refreshments
- mini-golf
- community art centre
- cycle shop and environmental community centre

6.7 In order to minimise the costs of preparing a proposal, the Board are asked to consider the concepts listed above and indicate if any are deemed unsuitable for inclusion within the park.

6.8 The shortlisted candidates will then be required to submit a sealed proposal containing the detailed concept, rental figure and the length of lease required (up to a maximum of 21 years). These bids will be due at Noon on Friday 20<sup>th</sup> March.

6.9 These proposals will be analysed by officers and the Trust's property consultants. Once they are analysed a report will be made to the Board in order to select a tenant for the building.

**Green Flag Award**

6.10 The application for the 2009-2010 Green Flag Award has been made. Judging takes place in May and the results are announced in July. The contribution made by volunteers and community groups is greatly appreciated and forms a large part of our submission.

### **Grounds Maintenance**

- 6.11 Winter maintenance works are underway around the park. Overgrown shrubs and hedges have been cut back and new roses and shrubs have been planted. Replacement trees have also been planted.
- 6.12 John O'Conner (Grounds Maintenance) have been successful in their bid for the ISO international standards for Environmental, Health & Safety and Quality Management Systems. The company was also announced as Employer of the Year by the Landscape Institute.
- 6.13 The Deer Manager has recommended a further extension to the fenced area to improve conditions for the fallow deer. Currently the deer rely heavily on supplementary feed in the form of pellets, haylage and fresh vegetables.
- 6.14 It is proposed an area approximately 40x40m be added to the southern end of the southern compound. The installation of chainlink fencing to match will be subject to a planning application. Feedback on this proposal is welcome.
- 6.15 The winter maintenance has been carried out on the pitch and putt course. The operator has proposed installing a new drainage system to improve playing conditions. A youth coaching scheme will start in the spring when the course re-opens.

### **Park Security**

- 6.16 Haringey Council have recently announced the disbanding of their Parks Constabulary. The service level agreement between Alexandra Palace and the Parks Constabulary will cease on 31 March 2009.
- 6.17 The Parks Police Officers usually patrol the park for 19 hours per week, however, they were replaced in September 2008 by a security guard from an external security contractor. The Parks Police Officers still attended site, but at a greatly reduced level.
- 6.18 The loss of the Parks Constabulary will be compensated by alternative provision provided by the palace security contractor.
- 6.19 A flexible approach will allow a greater security presence during peak times such as school holidays and summer evenings.
- 6.20 The Alexandra Safer Neighbourhood Team will continue with their high-visibility patrols and work closely with the Park Manager and Security Manager to react to reported issues.
- 6.21 The existing presence of staff in the park (grounds maintenance, security officers, cafés and volunteer groups) is wide ranging and provides reassurance for park users and has close similarities with the Parkforce model recently adopted by Haringey Council.

**7. Recommendations**

- 7.1 That the Board notes the report.
- 7.2 That the Board considers the proposal for a new footpath across Redston Field and the old race course and advises officers if they wish to progress this initiative.
- 7.3 That the Board considers the concepts for the Actual Workshop, and advises if any are deemed unsuitable for inclusion within the park.

**8. Legal Implications**

- 8.1 The Trust's Solicitor has been sent a copy of this report.

**9. Financial Implications**

- 9.1 The estimated cost for the construction of a new footpath across Redston Field is around £30,000. This figure is additional to the Trust's planned expenditure.
- 9.2 The Actual Workshop building currently attracts a small annual cost due to standing charges on the utilities and maintaining the fire alarm system. Letting the building on a fully repairing basis will pass those costs onto the tenant and provide an income stream for the Trust.
- 9.3 The extension to the deer compound is expected to cost around £8,900, and if approved, will be funded from within the budget for the year 2009-2010.
- 9.4 The disbanding of the Park's Constabulary and provision of alternative security guards will have a neutral effect on the overall security budget.
- 9.5 The LBH Chief Financial Officer has been sent a copy of this report.

**Comments of the London Borough of Haringey Chief Financial Officer:**

**Gerald Almeroth LBH CFO has been supplied a copy of this report and provided the following comment:**

'Consideration of the proposal for a new footpath needs to take into account the current financial position of the Trust and the likely increased deficit. I would recommend that the Trust should be considering reducing items of discretionary spend in order to try to stay within the budget.'

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Report Title: **9 MONTHS RESULTS TO THE END OF DECEMBER 2008 & FORECAST FOR YEAR END.**

Report of: **Helen Downie, Head of Finance, Alexandra Palace & Park**

### **1. Purpose**

- 1.1 To advise the Board of the 9 months result to the end of December 2008.
- 1.2 To advise the Board of the forecast out-turn.

### **2. Recommendations**

- 2.1 The Board are asked to note the income and expenditure for 9 months to the end of December 2008 contained in the report and summarised at Appendix I and the explanations for key variances given.
- 2.2 The Board are advised of the effect of the reduced covenant expected from APTL and agree the need for additional financial support to be sought from LBH.
- 2.3 The board should note the following measures that have been put in place by the charity officers to minimise the shortfall:
  - a) Freeze on all new commitments except urgent health and safety works.
  - b) Freeze on capital expenditure.
  - c) Rescheduling of committed works where possible.

Report Authorised by: **Helen Downie, Head of Finance**.....*H. Downie*.....

Contact Officer: Helen Downie, Head of Finance, Alexandra Palace & Park, Alexandra Palace Way, Wood Green, London N22 7AY. Telephone number 0208 365 4310.

### **3. Executive Summary**

- 3.1 The 9 months result is tabulated against budget at Appendix I.
- 3.2 Due to limited gift aid being available, there is a need to request a further £350k of funding over and above the agreed budget from LBH.
- 3.3 Expenditure has been minimised for the remainder of the year in order to reduce

the level of the overspend.
<b>4. Reasons for any change in policy or for new policy development (if applicable)</b> 4.1 N/A
<b>5. Local Government (Access to Information) Act 1985</b> 5.1 No specific background papers were used in compiling this report.

**6. Description**

- 6.1 The Board has agreed to set its net budget estimate for 2008/09 at £1.68m. This estimate includes a net operating loss of £2.68m and a gift aid payment from APTL of £1m.
- 6.2 The tabulation at Appendix 1 summarises the financial information for the 9 months up to the end of December 2008. Overall, income is £24k above budget and expenditure is £179k below budget, giving a net favourable variance of £203k. Explanations for the key variances are given in sections 6.5 and 6.6 below.
- 6.3 The consolidated position (APPCT+APTL) is however that a short fall in APTL covenant will mean an overrun of the allocated budget from LBH by £350k.
- 6.4 The budget projections for the year have been updated and are also shown in Appendix 1.

APTL management accounts have been prepared for the 9 months ended December 2008, together with forecast results for the year, and indications show that the target of a net gift aid payment of £1m is not achievable. This will have an impact on the deficit funding requirement from London Borough of Haringey.

There are several reasons why the trading company has been unable to achieve its target profit for the year; primarily;

- the APTL budget was set before the current recession was predicted. Whilst income for the year to December is broadly in line with budget, the economic downturn has had an impact on the company being able to secure the anticipated level of hires for the period January – March 2009
- Utility costs increased by roughly 100% from October/November 2008. The Trust is a member of the OGC, which negotiates utility prices with energy suppliers on behalf of a number of public sector bodies. Annual contract prices are fixed in advance. This has the advantage of greater certainty for budgeting purposes within the contract period itself but means that there is a time lag between changes in oil prices and increases or reductions in utility

costs. APTL currently bears 95% of the utility costs for the site, thus the increase has had a significant impact on the company's profits.

- The budget for 2008/09 was drawn up using a number of assumptions based on the best financial information available at the time. The process was hampered by a lack of detailed financial information in some areas. This has led to some incorrect assumptions being used in areas such as cost of hires and overheads.
- In some areas of the business, prices have remained static for two to three years whilst costs have increased, eroding the profitability of the business in these areas. The company is currently undertaking a review of prices in key areas; however, any decision to increase prices will now need to be taken in the context of the economic downturn.
- A lack of investment in the fabric of the building makes the Palace an increasingly difficult 'sell' for the Sales Team. Whilst the World Darts Championship proved that the Palace can be transformed into a world class venue with the right vision and investment, not all our prospective clients share this imagination and many would prefer a purpose-built venue which is already 'fit for purpose'.

The estimated gift aid payment is £450k which, combined with the forecast underspend of £201k, gives a net deficit of £2.03 Million. This will require a request being made to London Borough Haringey for extra funding of £349k in addition to the £1.7m already agreed.

- 6.5 In order to minimise the shortfall, expenditure by the charity for the remainder of the year has now been reduced to a strict minimum to ensure that the charity revenue deficit is minimised. Unless of a Health and safety nature, non essential repairs and maintenance will be not be commissioned and existing commitments are being reviewed to reschedule works where possible so they now fall after year end.

Capital expenditure has been limited to date. The expenditure on fixed assets for the year to December was £44k, largely in the category of fixtures and fittings, which will be depreciated over four years. It is now not possible to make the targeted capital purchases that were proposed earlier in the year to assist the trading company. No further capital items will be purchased.

- 6.6 Income is £24k above budget; however, the original budget omitted lease income from the Garden Centre of £27.5k for the year. The forecast has been increased to account for this and also for higher than anticipated service charges for utilities costs, which are invoiced annually in arrears.
- 6.7 Prime costs are £42k or 4% above budget for the year. This is due to a top-up payment of £60k in relation to the defined benefit pension scheme for security staff transferred to Mitie under TUPE when the Palace's security arrangements were originally outsourced.

Fixed overheads are £16k over budget due to additional costs, primarily public liability insurance (£37k) which is higher than allowed for in the original budget.

Variable overheads are £210k under budget due largely to planned underspends on building repairs and maintenance (£212k) and depreciation (£46k). Professional fees are £43k over budget which is partly offset by a £27k underspend on Development costs.

## **7. Consultation**

7.1 N/A

## **8. Summary and Conclusions**

8.1 The 9 months result is tabulated against budget at Appendix I.

8.2 There is a need to request a further £350k of funding over and above the agreed budget from LBH.

8.3 Expenditure has been minimised for the remainder of the year in order to reduce the level of the overspend.

## **9. Recommendations**

9.1 The Board are asked to note the income and expenditure for 9 months to the end of December 2008 contained in the report and summarised at Appendix I and the explanations for key variances given.

9.2 The Board are advised of the effect of the reduced covenant expected from APTL and agree the need for additional financial support to be sought from LBH.

9.3 The board should note the following measures that have been put in place by the charity officers to minimise the shortfall:

- a) Freeze on all new commitments except urgent health and safety works.
- b) Freeze on capital expenditure.
- c) Rescheduling of committed works where possible.

## **10. Legal Comments**

10.1 The Trust's Solicitor has been sent a copy of this report.

## **11. Financial Comments**

11.1 The Paper details the reasons behind the reduction in the anticipated gift aid payment from APTL and sets out the measures the trust is taking to minimise the (consolidated) budget overrun.

11.2 LBH CFO has been sent a copy of this report and his comments are attached as Appendix 2.

**12. Use of Appendices / Tables / Photographs**

12.1 Appendix 1 – Summary of the budget versus actual for 9 months to December 2008 and year end forecast.

Appendix 2 – Comments of LBH CFO.

## ALEXANDRA PALACE AND PARK CHARITABLE TRUST

## ACTUAL VERSUS BUDGET FOR THE NINE MONTHS TO DECEMBER 2008

	Actual YTD	Budget YTD	Variance	'ariance %	Annual Forecast	Original Budget	Variance	'ariance %
Concessions/Leases	175,947	157,406	18,541	12%	286,187	251,775	34,412	14%
Community Events	39,377	45,750	-6,373	-14%	43,147	53,000	-9,853	-19%
Sundry Sales	270	3,000	-2,730	-91%	1,270	4,000	-2,730	-68%
Service Charges	20,562	6,000	14,562	243%	27,563	8,000	19,563	245%
<b>TOTAL INCOME</b>	<b>236,156</b>	<b>212,156</b>	<b>24,000</b>	<b>11%</b>	<b>358,167</b>	<b>316,775</b>	<b>41,392</b>	<b>13%</b>
<b>EXPENDITURE</b>								
Salaries	226,988	196,036	-30,952	-16%	308,248	261,381	-46,867	-18%
Contracted Services	809,724	798,500	-11,224	-1%	1,095,109	1,048,000	-47,109	-4%
<b>TOTAL PRIME COSTS</b>	<b>1,036,712</b>	<b>994,536</b>	<b>-42,176</b>	<b>-4%</b>	<b>1,403,357</b>	<b>1,309,381</b>	<b>-93,976</b>	<b>-7%</b>
Fixed overheads	313,660	297,750	-15,910	-5%	403,731	397,000	-6,731	-2%
Variable overheads	587,809	798,248	210,439	26%	886,748	1,082,220	195,472	18%
<b>TRUST BEFORE DEVELOPMENT COSTS</b>	<b>-1,702,025</b>	<b>-1,878,378</b>	<b>176,353</b>	<b>9%</b>	<b>-2,335,669</b>	<b>-2,471,826</b>	<b>136,157</b>	<b>6%</b>
Development costs	130,574	157,500	26,926	17%	145,574	210,000	64,426	31%
<b>TOTAL TRUST OPERATION</b>	<b>-1,832,599</b>	<b>-2,035,878</b>	<b>203,279</b>	<b>10%</b>	<b>-2,481,243</b>	<b>-2,681,826</b>	<b>200,583</b>	<b>7%</b>
Deed of Covenant/Gift aid payment					450,000	1,000,000		
<b>NET DEFICIT</b>					<b>-2,031,243</b>	<b>-1,681,826</b>		
<b>ADDITIONAL FUNDING REQUIREMENT</b>						<b>-349,417</b>		

**Comments of the London Borough of Haringey Chief Financial Officer:**

**Gerald Almeroth LBH CFO has been supplied a copy of this report and provided the following comment:**

'The projected overspend of £349K against the overall £1.68m budget is noted. Members of the Board would need to consider how this may be reduced before the year end.'

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Agenda item:

**Alexandra Palace & Park Board On 24th February 2009**

Report Title: **Action Plan for reform of governance of APPCT (update number 2)**

Report of: **David Loudfoot, General Manager**

**1. Purpose**

- 1.1 To update the trustees on progress with the action plan which was adopted on the 26<sup>th</sup> September 2008.
- 1.2 To present the draft code of governance for the charity.

**2. Recommendations**

- 2.1 That the trustees note progress with the action plan.
- 2.2 That the trustees hold an away day, to discuss the attached draft code of governance and associated schedules, in doing so, the trustees consider inviting for some or all of the away day the persons listed in paragraph 6.6
- 2.3 That a special board be arranged once the trustees have debated and amended the code of Governance in order to formally adopt it.

Report Authorised by: **David Loudfoot, General Manager**.....

Contact Officer: **David Loudfoot, General Manager, Alexandra Palace & Park,  
Alexandra Palace Way, Wood Green N22 7AY Tel No. 020 8365 2121**

### **3. Executive Summary**

- 3.1 The LBH section 151 officer provided an independent report to the trustees that contained a series of actions which were recommended to improve the governance of the Charity for the future.
- 3.2 This paper updates the action plan to detail implementation of the various recommendations and provides the draft code of governance for the charity for the trustees to consider.
- 3.3 External assistance with the implementation of the plan has been obtained via CIPFA professional placements.

### **4. Reasons for any change in policy or for new policy development (if applicable)**

- 4.1 The independent report identified some deficiencies and a more comprehensive system of governance is being defined.

### **5. Local Government (Access to Information) Act 1985**

- 5.1 The Independent review for the London Borough of Haringey, "development of a licence to operate with Firoka" report has been referred to in the preparation of this report.
- 5.2 The documents and publications listed on page 1 of appendix 2 have been referred to in the preparation of this report.

### **6. Report.**

- 6.1 An independent report which identified some weaknesses in the APPCT governance was presented on the 26<sup>th</sup> September 2008 to a special meeting of the trustees. This report was commissioned by the LBH Director of Corporate Resources using section 151 officer powers in response to concerns raised about the process and implementation of the temporary Licence to Firoka.
- 6.2 On the 26<sup>th</sup> September the General Manager presented an action plan and identified that the key priorities will be the initial drafting of the code of governance and the scheme of delegation with the other actions then following on from this point.
- 6.3 The action plan set out planned timescales and the trustees were made aware that in order to meet these timescales it would be necessary to ensure that adequate resources are provided to Officers to drive this process to completion.

- 6.4 The General Manager has taken external advice and guidance on the development of the new code of governance via a consultant , Ralph Tingle, provided by CIPFA Placements.
- 6.5 The action plan is attached at appendix 1 and has been updated to show the progress to date.
- 6.6 The draft code of Governance is attached at appendix 2, It is a comprehensive document drawing on best practice from the charity sector. It consists of 9 schedules which combine to form the code. An Executive summary is provided at the beginning of the appendix.
- 6.7 The draft code of Governance contains a substantial amount of detail and trustees are asked to consider the holding of an away day to discuss the implementation of it and trustees should also consider whom they wish to invite to all or part of the away day.
- 6.8 Suggested invitees to the away day are :
- a. General Manager.
  - b. Trust Solicitor.
  - c. Ralph Tingle (CIPFA placement)
  - d. Head of LBH Audit.
  - e. Julie Parker LBH DCR.
  - f. Terence Mitchison LBH Legal.
- 6.9 Following the trustees review of the code and any subsequent amendments are made, a special board meeting should be held to formally adopt the code of governance.

## **7. Legal Implications**

- 7.1 The Trusts solicitor has been consulted in respect of the preparation of this report and on the code of governance.
- 7.2 The action plan implementation is contributing to the reduction of overall risk of governance failure of the charity.

## **8. Financial implications.**

- 8.1 The LBH Chief Financial Officer has been provided with a copy of this report. His comments are provided as Appendix 5.
- 8.2 The requirement for additional trustee meetings and engagement will also have a cost implication which has been included in the budget for the FY 2009/10.
- 8.3 The seminar for the GM is at nominal cost of £345.

8.4 The cost of the external assistance via CIPFA has to date amounted to £6,468.

**9. Use of Appendices / Tables / Photographs**

- 9.1 Appendix 1 Action Plan
- 9.2 Appendix 2 Draft code of Governance (schedules 1-9)
- 9.3 Appendix 3 Report of trust solicitor on powers and duties
- 9.4 Appendix 4 Current strategy and objectives of APPCT
- 9.5 Appendix 5 Comments of LBH CFO

**Comments of the London Borough of Haringey Chief Financial Officer:**

**Gerald Almeroth LBH CFO has been supplied a copy of this report and provided the following comment:**

**'The report and progress is noted.'**

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**APPENDIX 1**

**ACTION PLAN**

	<b>RECOMMENDATION: AIM OF REVIEW</b>	<b>PROPOSED TIMESCALES</b>	<b>RESPONSE</b>
<b>1.0</b>	<b>The Trustees of the Alexandra Palace and Park Trust review this report and consider the implications for good governance that it infers. Suggested outcomes of that review being to:</b>		
<b>1a</b>	<ul style="list-style-type: none"> <li>Present a response to the Chief Finance Officer (Section 151 officer) of the London Borough of Haringey.</li> </ul>	<b>Nov 08</b>	<p>The trust solicitor should in conjunction with the senior staff and approval of the trustees prepare a response This action plan shall be part of that response.</p> <p>The General manager has consulted the trust solicitor and it is suggested that at this time a formal response above and beyond the action plan and it's updates is not needed, trustees should monitor the implementation and ensure that the action points are met, any deficiencies in progress should be reported to the section 151 officer.</p>

**APPENDIX 1 continued**

<p>1b</p>	<ul style="list-style-type: none"> <li>• Include the creation of a 'smart' action plan showing milestones, key achievements and outcomes.</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>	<p>Once agreed with the board the responses in this document to be further time-lined and the rollout of them to be monitored by the General Manager who shall report progress to future meetings of the trustees. Progress with the action plan continues to be reported to the board.</p> <p>Once the new code of conduct is adopted the remaining action points will be further scheduled and reported to the board.</p>
<p>1c</p>	<ul style="list-style-type: none"> <li>• Put in place a system of monitoring to ensure regular review of standards.</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>	<p>The General Manager is adopting a system of staff reviews which is designed to achieve this within the staffing complement. This will be implemented in the coming month and when fully developed this will form a performance management framework for the future linked to item 2a Review of standards will also be addressed as part of the work on (2a).</p> <p>The initial round of charity staff performance reviews have been implemented and the next review is now scheduled for May 2009.</p>
<p>1d</p>	<ul style="list-style-type: none"> <li>• Consider the extent to which regular financial and performance measurement data is routinely reported to the Trustees.</li> </ul>	<p><b>Feb 09</b></p>	<p>It is current practice that financial reports are provided to each regular board meeting. The trustees should as part of the governance review consider if they would wish for either circulation of interim financial reports between board meetings</p>



**APPENDIX 1 continued**

			<p>or increasing the frequency of meetings.</p> <p>The number of scheduled meetings for the 2009/10 municipal year has been increased to 5 ( from 3) the draft code of governance suggests further expansion of this by means of an audit and risk sub committee and this should be further considered by the trustees.</p> <p>The code of governance recommends an audit and risk sub-committee be formed.</p> <p>The charity should complete the work started sometime ago on a formal risk management register.</p> <p>The draft COG now contains a formal risk register for the trust, it should be reviewed by the trustees as part of the away day.</p> <p>The budget planning process in future years should include a formal business plan with clear targets and performance measures being included in this plan.</p> <p>The board will be considering a draft business plan as part of the budget process at the board meeting of 24<sup>th</sup> Jan 2009.</p>
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	<p><b>RECOMMENDATION: AIM OF REVIEW</b></p>	<p><b>PROPOSED</b></p>	<p><b>RESPONSE</b></p>
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**APPENDIX 1 continued**

	TIMESCALES	
<p><b>2.0</b></p> <p><b>That the Trustees similarly cooperate with the Audit Division of the London Borough of Haringey in their review of governance at the Alexandra Palace in order to:</b></p>		
<p>2a</p>	<p><b>Initial report by Feb 09</b></p>	<p>The general manager should lead on a review of APPCT governance based on the best practice in the voluntary sector having in particular regard to guidance published by the Charity Commission. The General manager will draw upon external advice on voluntary sector and local authority best practice as part of this process.</p> <p>This will define a framework for both the trustees and officers to work within.</p> <p>The implementation of this is likely to entail a significant amount of trustee engagement including possible external moderation and 'trustee away days'.</p> <p>The initial draft code of governance is attached to this report as appendix 2.</p> <p>Trustees are advised that they need to consider holding an away day to discuss the code of governance and then a subsequent special meeting to adopt its contents and any revisions stemming from the away day.</p> <p>The Board should invite a number of advisers to the away day including senior representatives from LBH audit and legal</p>

**APPENDIX 1 continued**

	<p>to provide assistance with the deliberations.</p> <p>The General manager will lead upon production of such delegation to include a "chief executive limitations" document in respect of his own delegated powers. This scheme will also have regard to Charity best practice and the standing orders of LBH.</p> <p>This scheme should be formally reviewed every 3 years or more often if necessary.</p> <p>This will link into the work in (2i).</p> <p>This work has been included in the draft code of governance as schedule 4 and is attached at appendix 2. Trustees should note that the present scheme of delegation to the GM is via the LBH constitution and this is currently being redrafted by LBH.</p>
<p>2b</p>	<p><b>Feb 09</b></p> <ul style="list-style-type: none"> <li>Determine a full scheme of delegation showing the extent of powers delegated from the Trustees to the individual officers and the conditions within which they will exercise those powers.</li> </ul>
<p>2c</p>	<p><b>Feb 09</b></p> <ul style="list-style-type: none"> <li>Clarify the role of the Trustees in order to ensure that paid staff and Trustees have a full understanding of their respective roles and responsibilities.</li> </ul> <p>The General Manager will prepare/ commission a draft document identifying the role of the trustees in respect of the strategy and objectives of the Charity. This will also identify expected and best practice in communications between the trustees and staff and officers.</p> <p>The current strategy and objectives are attached at appendix 3, The trustees have embarked on a process of review which will be completed in the summer 09.</p>

**APPENDIX 1 continued**

<p>Briefing notes from the charity commission on the roles of trustees is part of the existing induction pack.</p> <p>Annual induction and (re)training session led by the Trust solicitor and General Manager will continue and both new and existing trustees will be expected to attend.</p> <p>Clear guidance and training on roles of staff should be provided to both staff and trustees. This should be inline with Charity commission guidance on best practice and local authority regulations.</p> <p>This will be included in the work required for (2b). Guidance on this will be included in the new trustee pack for the coming municipal year</p> <p>Best practice recommends that all trustees should attend an annual induction and (re)training session led by the Trust solicitor and General Manager. This is currently arranged before the first cycle of meetings in the municipal year and again at any change of membership to the trustees.</p> <p>In future, the sessions should be attended by all trustees whether newly appointed or long standing. All trustees have always</p>			
<p>• Clarify procedures and opportunities for briefing of Trustees.</p>	<p>.</p> <p><b>Oct 08</b></p>		

**APPENDIX 1 continued**

		<p>been invited to all induction meetings but the requirement for existing trustees to attend will be reinforced by reminding trustees of this action point in the invitation letter from the trust solicitor</p> <p><b>May 09</b></p> <p>A short form trustee manual should be published each (municipal) year in addition to the full induction pack currently provided.</p> <p><b>Feb 09</b></p> <p>The board currently receive briefing notes as necessary, the review should consider a process for holding a pre-meeting prior to formal (decision making) board meetings or for strategically significant issues whereby a longer briefing may be supplied. Informal pre meetings are available to trustees who request a briefing by the trust solicitor or General manager, none have been requested to date.</p> <p>Trustees have been and will continue to be encouraged to contact the GM where there are any issues arising from circulated papers or briefings.</p> <p>The trust solicitor should provide advice on the overlap between best practice in the charity sector and local authority processes for briefing and information transfer where local authorities sit as trustees.</p>
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**APPENDIX 1 continued**

<p>Work on this has been included in the draft code of governance and is also featured in the trustee induction pack.</p>			
<p>It has been actioned that all meetings where potential negotiations are being conducted are minuted.</p> <p>As a point of principle, as trustees have no authority to bind the charity, trustees should not hold client/negotiation meetings or discussions without the General Manager also being present.</p> <p>This will be formally addressed and reinforced as part of the work in (2b) and (2d). A briefing note by the trust solicitor has been prepared on the trustees powers and duties, it is attached as appendix 4</p>	<p>.</p> <p>.</p> <p><b>Feb 09</b></p>	<p>• Ensure that processes exist to provide clear audit trails and documentation to support decisions. This is particularly important where any form of negotiation is involved.</p>	
<p>The trustees should consider a mechanism whereby the briefings and discussions currently held with the chair are given a wider circulation.</p> <p>This has been agreed, briefing notes will now be circulated to all trustees.</p> <p>These points will form part of the code of governance and good practice will suggest that a regular meeting between the General Manager/trust solicitor and all</p>	<p><b>Jan 09</b></p>	<p>• Determine processes for consultation with Trustees and other related bodies to ensure clarity and certainty of decision making.</p>	

**APPENDIX 1 continued**

		<p><b>Oct 08</b></p>	<p>trustees for briefing rather than decision purposes should be considered.</p> <p>The General Manager will continue to meet the LBH lead officers on a regular basis to ensure up to date financial and governance information is communicated to LBH. This continues.</p> <p>This will be formally addressed as part of (2d).</p>
<p>2g</p>	<ul style="list-style-type: none"> <li>Determine or reinforce procedures for the production of key reports including allowing sufficient time for proper consideration and consultation and to develop an allied system for actions in case of emergency or urgent action.</li> </ul>	<p>.</p> <p>.</p> <p><b>Oct 08</b></p>	<p>The section 151 officer already receives copies of board reports and a mechanism for his comments to be appended exists.</p> <p>Timescales for reporting have already been improved but the governance review should formally set out that Board reports (requiring a decision) should not be tabled except in case of extreme emergency.</p> <p>Tabled reports must include the comments of LBH officers or alternately LBH officers must be represented at the meeting.</p> <p>A delegated panel system already exists for urgent board decisions; this facility should be made more use of if reports to regular boards are delayed.</p> <p>These arrangements to be formalised as part of the work on (2a +2b).</p> <p>This has been included in the draft code</p>

APPENDIX 1 continued

	<p>Continues</p> <p>Trust solicitor and General manager to prepare joint report on governance issues and Charity Commission and voluntary sector best practice in conjunction with LBH legal team who will advise on the local authority aspects. This work will form part of item (2a)</p>	<p><b>Feb 09</b></p>	<p>Trust solicitor and General manager to prepare joint report on governance issues and Charity Commission and voluntary sector best practice in conjunction with LBH legal team who will advise on the local authority aspects. This work will form part of item (2a)</p>
<p>2h</p>	<ul style="list-style-type: none"> <li>Receive a report from the Trustee's legal advisors in co-operation with the Legal Department of the London Borough of Haringey to ensure compliance with good governance guidelines as determined by the Charity Commission and to ensure that revised standards meet existing and anticipated statutory requirements.</li> </ul>	<p><b>Feb 09</b></p>	<p>This work has also been identified by the internal audit and a review is already underway and will be completed by Feb 09.</p> <p>Review continues and will conclude at the end of the financial year.</p> <p>Details of major contracts are already reported to the board when the award is made but it would be an improvement for an annual report on 'current contracts' to be produced. This report will be produced at year end</p> <p>The General Manager should regularly brief the board where his delegated powers have been exercised.</p> <p>This will form part of the governance code.</p>
<p>2i</p>	<ul style="list-style-type: none"> <li>Fully review existing contracts for other services in order to ensure that they contain no shortcomings that expose the Trustees to either financial risk or accusation of poor governance standards.</li> </ul>	<p><b>Feb 09</b></p>	<p>The current arrangements are that all leases are sent to the HOLS for signature.</p>
<p>2j</p>	<ul style="list-style-type: none"> <li>Consider the extent to which, in future, all contracts for significant services should, as a matter of course, be</li> </ul>	<p>.</p>	<p>The current arrangements are that all leases are sent to the HOLS for signature.</p>



## APPENDIX 1 continued

	<p>reviewed by legal representatives and subject to the signature of the Head of Legal Services (HOLS) at the London Borough of Haringey.</p>	<p style="text-align: center;"><b>Feb 09</b></p>	<p>Contracts for expenditure in excess of £150k are also sent to HOLLS for signature.</p> <p>As part of the delegation review the trustees should consider the future extent of the arrangements and this will be defined in the scheme of delegation.(2b).</p> <p>A scheme of delegation is included in the draft code of governance, it should be noted that LBH are also reviewing the general scheme of delegation.</p>
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	<b>RECOMMENDATION: AIM OF REVIEW</b>	<b>PROPOSED TIMESCALES</b>	<b>RESPONSE</b>
3.0	<p>That an internal review of relationships between the Alexandra Palace and the London Borough of Haringey is carried out so as to include:</p>		
3a	<p>The adoption of protocols which maintain suitable autonomy for the Charity but recognise the importance of the relationship with the London Borough of Haringey and the support and guidance it can offer.</p>	<p style="text-align: center;"><b>Feb 09</b></p>	<p>Formal arrangements have been put in place and will be strengthened where by the General Manager has a regular dialogue with the senior officers of the council.</p> <p>The trustees need to fully review the governance arrangements (item 2a) and consider the support available from LBH so as to ensure the proper separation of function but maximise the available advice.</p>

**APPENDIX 1 continued**

		<p><b>Feb 09</b></p>	<p>A away day is suggested elsewhere in this report, this will form part of that discussion.</p> <p>Where LBH can/does offer assistance then Service Level Agreements should be put in place to define the extent of the assistance provided and responsibility for the associated costs.</p> <p>A Draft SLA for procurement has been produced and is being considered by the General Manager</p>
<p>3b</p>	<p>Ensure the validity of a process which allows sufficient time and opportunity for the London Borough of Haringey to consider matters of strategic importance or potential financial consequence.</p>	<p><b>Oct 08</b></p>	<p>Work on this issue has already been undertaken, the existing protocol is that all reports are submitted to the LBH Chief Financial Officer &amp; Legal team with (where possible) at least 5 days to allow time for comments to be raised. These timescales can be further improved and this should be addressed as part of item 2g and 3c</p> <p>Longer timescales will be applied for matters of strategic significance.</p> <p>The system where by LBH Comments are appended to the trust reports so as to ensure the separation of function is maintained has been reinforced and</p>

**APPENDIX 1 continued**

			will continue. Tabled reports (requiring a decision) should be avoided except in extreme emergency, and if this is needed LBH officers should be notified and able to attend meeting. This will be addressed in item (2b)
3c	Identify barriers to cooperation and support and to eradicate these accordingly.	<b>Feb 09</b>	The current general manager has established good working relationships with the senior officers at LBH.  Any remaining barriers should be addressed as part of the review of (3a +3b) to ensure that trust staff and LBH officers clearly understand the roles and protocols, and that an improved spirit of cooperation is fostered.
3d	That the actions of staff taken within the report are evaluated by the Trustees in cooperation with the London Borough of Haringey with a view to identifying short comings in their performance over the production of this licence.		<i>It would be inappropriate for the General Manager to comment on this item and the action recommended on this item is dealt with in the report of the DCS.</i>
	<b>RECOMMENDATION: AIM OF REVIEW</b>	<b>PROPOSED TIMESCALES</b>	<b>RESPONSE</b>
4.0	That key staff at the Palace are, where appropriate, given advice, support and training in good governance. This should include:		

**APPENDIX 1 continued**

4a	<ul style="list-style-type: none"> <li>Operating within a political environment.</li> </ul>	Feb 09	<p>This will require liaison between the trust and LBH HR team to offer its advice and the provision of a briefing pack to the senior staff at the Trust.</p> <p>Where training needs are identified it will be provided.</p> <p>LBH HR team are currently researching this for council wide distribution, action will be updated once the review by LBH is complete.</p>
4b	<ul style="list-style-type: none"> <li>The responsibilities of staff serving a body of Trustees.</li> </ul>	Feb 09	<p>Briefing document to be prepared by the trust solicitor and included in both the management and trustee briefing packs so that the roles and boundaries are clearly understood.</p> <p>This will be part of work on (2d) (2f)</p> <p>Where training needs are identified as part of this process, suitable training (if necessary via an external agency )will be provided</p> <p>The general manager has identified a training seminar on charity administration and is attending this in March.</p>
4c	<ul style="list-style-type: none"> <li>The development of informative reporting that support good decision making including the proper evaluation of alternatives, clear and reliable financial and operational information and evaluation of potential risk.</li> </ul>	Feb 09	<p>The future format of board reports to be considered as part of the overall governance arrangements (2a), future reports should focus more on risk evaluation and options appraisal especially where a decision is needed.</p>

**APPENDIX 1 continued**

			<p>The regular meetings between the General Manager and LBH Officers will also contribute to the information transfer.( also see 4d)</p> <p>Where the resolutions from board reports require a further feedback report this should be made as a formal report rather than as a verbal update.</p> <p>This should naturally flow from a better defined framework between the trust and LBH but assurances should be sought in the future by the trustees that this is the case.</p> <p>Agreed and has been actioned.</p>
4d	<ul style="list-style-type: none"> <li>• Ensuring that an atmosphere of transparency and openness exists between senior officers to ensure that all have the opportunity to contribute towards strategic decision taking.</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>	
4e	<ul style="list-style-type: none"> <li>• The proper use of external documents to ensure no infringement of copyright or intellectual property rights.</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>	

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**SCHEDULE 1**

**Code of Practice for Members of the  
Board of Trustees of  
The Alexandra Palace and Park Charity**

**1 Background**

- 1.1 The Committee on Standards in Public Life was established in October 1994 to consider standards of conduct in various areas of public life under the Chairmanship of Lord Nolan. This code is based on a similar framework and adapts the Nolan Committee's "Seven Principles of Public Life".
- 1.2 Trustees have legal duties and responsibilities and this Code of Practice sets out the conduct required by the Trustees of the Alexandra Palace and Park Charity (APPCT) to ensure the highest standards of integrity and stewardship. It also clarifies how potential conflicting interests are to be raised and dealt with.
- 1.3 The approach set out in this Schedule reflects a similar approach that Trustees will recognise in their role as Councillors. It combines best practice in the Charitable sector with what Councillors will already be familiar with. Extracts of the relevant sections from Haringey's Standing Orders are set out at Appendix A. There is a form attached at the Annex to this Schedule covering Declarations of Interest for all Trustees to complete and sign.
- 1.4 Details of these declarations from all Trustees will be reported to the Board once a year. Any changes occurring during the year will be reported at the next meeting of Trustees.

**2 Selflessness**

- 2.1 The Trustees have a general duty to act in the best interests of the Charity as a whole. Decisions should be taken by Trustees solely in terms of public interest; they should not do so in order to gain financial or other material benefits for themselves, their family, their friends or other organisations they come from or represent.

**3 Integrity**

- 3.1 The Trustees should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their role. Trustees must avoid actual impropriety as well as any appearance of improper behaviour.

**4 Objectivity and impartiality**

- 4.1 In carrying out their role, including making appointments (including Trustee appointments), awarding contracts, recommending individuals for rewards and benefits or transacting other business, the Trustees should ensure that decisions are made solely on merit.

**5 Accountability**

- 5.1 The Trustees have a duty to comply with the law on all occasions in accordance with the trust placed in them and in such a way as to ensure public confidence in the Charity. They are accountable for their decisions and actions to the members, public, funders and service users. They must submit themselves to what scrutiny is appropriate to their role.

**6 Openness**

- 6.1 The Trustees should be as open as possible about their decisions and action that they take. They should give reasons for their decisions and restrict information only when the wider interest clearly demands.

**7 Honesty**

- 7.1 The Trustees have a duty to declare any private interests relating to their role and to take steps to resolve any conflicts that may arise in a way that protects the public



interest. They must make relevant declarations of interest in the different circumstances and roles they play both within and outside the APPCT. This should be recorded on the attached form Appendix to Schedule 2; the detailed procedure is set down below.

**8 Leadership**

8.1 The Trustees should promote and support these principles by leadership and example.

**Detailed Guidance**

**9 Declarations of Interest**

9.1 All Trustees are required to declare any personal or business interests that may be interpreted as being in conflict with their responsibilities as members of the Board. This is to avoid any perception that a Trustee may have been influenced by their private interests in the exercise of their duties.

9.2 The Board will keep a Register of Interests relevant to the work of the Charity. The register will, as a minimum, list :

- direct or indirect pecuniary interests which members of the general public might reasonably think could influence Board Members' judgement;
- non-pecuniary interests which relate closely to the activities of the Society, as well as interests of close family members and persons living in the same household as the Trustee;
- links with firms, businesses or organisations involved in the procurement, provision or inspection of services to the Charity.

9.3 Each year all Trustees will be required to complete a form (attached at the Annex to this Schedule) declaring their interests. The Register will then be maintained and annually updated by the General Manager to the Charity, whom Trustees should inform as soon as is practicable of any changes in their interests.

**10 Declaration of Interests in Meetings**

10.1 All Trustees must declare any relevant interests in issues to be discussed at formal meetings of the Board. This should be declared in advance of the meeting and again prior to the discussion of the relevant agenda item at the meeting.

10.2 After a Trustee has fully explained the nature of his/her interest, the Chair will decide whether and to what extent the Trustee should participate in the discussion and determination of the issue and whether they must withdraw from the meeting for some or all of it. Where the Chair has a relevant interest and leaves the meeting, the Vice-Chair or a nominated Board Member will chair that agenda item.

**11 Media & Public Speaking Engagements**

11.1 Trustees should ensure that they inform the Chair of any engagements to speak in public on any subject related to the work of the Charity. They should always make explicit those occasions when they are speaking as an official representative of the Charity and those occasions when they are expressing views that are not necessarily the views of the Board of Trustees as a whole.

11.2 The Chair is the official spokesperson for the Charity. Trustees must not commit to media interviews solely as representatives of the Charity without first consulting with, and gaining the approval of, the Chair.

**12 Gifts and Hospitality**

12.1 Trustees must treat with caution any offer of gifts or hospitality arising from their membership of the Board of APPCT. They should not accept or offer a gift, hospitality or some other benefit as a reward, either for doing or not doing something in their official capacity, or for showing advantage to someone or some other organisation. Gifts of cash should always be refused.

12.2 Isolated gifts of a trivial nature, or minor seasonal items such as calendars or diaries, may be accepted. Offers of conventional hospitality (such as a working lunch, working dinner or overnight stay with a member) may be accepted where it is normal and reasonable in the circumstances.

12.3 All gifts which exceed a notional value of £25.00 should be reported to the General Manager of the Charity who will maintain a register of gifts which is open to public inspection. This limit will be reviewed on an annual basis. If Trustees are in any doubt of the likely value of the gift, details should be provided for inclusion in the Register.

### **13 The Board as an Employer**

13.1 The APPCT is working towards being an Equal Opportunities employer, with a clear commitment to valuing diversity, both internal and external to the organisation. Board Members have an individual responsibility to adhere to the principles of Equal Opportunities and to treat each other, the staff of the Charity and other stakeholders with respect and courtesy. They also have a corporate responsibility to ensure that the work of the Charity is conducted on the basis of policies that comply with Equal Opportunities.

13.2 Trustees must ensure that there is a clear understanding of the scope of the authority delegated to the General Manager. Trustees should be careful both individually and collectively not to undermine it by word or action.

13.3 There will be circumstances under which Trustees will be working directly with Charity staff and, when these occasions arise, the Chairman or General Manager should be informed in advance. Where a Trustee has concerns relating to the performance of a member of staff he/she should contact the Chair, who will take the matter up with the General Manager.

### **14 Board papers**

14.1 All Board papers are the property of the Board. It is the responsibility of the Board collectively, not of any individual, to decide when they should be made available to a wider audience. While the Board aims to conduct its business openly, it is inevitable that some matters must be confidential either for a time or always.

14.2 Trustees are advised, where possible, to keep the Board papers secure for a minimum of 3 years after which they should dispose of papers locally. If they are unable to do so, they should contact the General Manager who will arrange for their disposal. At the end of a Trustee's term of office, all Board papers should either be destroyed or returned to the Charity.

### **15 Outside the Board meetings**

15.1 The Trustees must:

- exercise restraint outside a meeting in relation to particular comments made within the Board meeting by individual members;
- accept that it is inappropriate for any private or public references to "who said what", except in dialogue with other Trustees;
- understand the need for care and restraint, honouring the spirit as well as the letter of the Code of Practice, when talking about Board matters at any other forum.

### **16 Disagreements**

16.1 It must be remembered that decisions reached by the Board are collective decisions and a decision is binding on all Trustees. Where a Trustee is in disagreement with a decision the Trustee should request that this is minuted.

16.2 Where a Trustee has a disagreement or dispute over any other matter, he/she is encouraged to raise the matter informally with the Chair. If not resolved informally, a Trustee may request the Chair to refer the matter at the next meeting of Board.

**17 Failure to observe the Code of Practice**

**17.1** If any trustee fails to perform the duties required of them in line with this Code, they will be judged as failing to carry out the duties of their office. Such failure may result in their removal from the role of a Trustee of the APPCT

Appendix A

**Part Five Section A**  
**Haringey Members' Code of Conduct**

**THE GENERAL PRINCIPLES**

***Selflessness***

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

***Honesty and Integrity***

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

***Objectivity***

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

***Accountability***

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

***Openness***

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

***Personal Judgement***

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

***Respect for Others***

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

***Duty to Uphold the Law***

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

***Stewardship***

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

***Leadership***

10. Members should promote and support these principles by Leadership, and by example, and should act in a way that secures or preserves public confidence.

**EXPLANATORY NOTE**

Listed above are the general principles, as specified by the Secretary of State, which are to govern the conduct of Members and co-opted members of relevant authorities in England and police authorities in Wales, in accordance with section 49(1) of the Local Government Act 2000. The

general principles are expected to govern only the official conduct of Members and co-opted members, apart from the second and eighth, which have effect on all occasions.

Members are required to give the Authority a written undertaking that in performing their functions they will observe the Code of Conduct adopted by the London Borough of Haringey as set out below. This is based on the general principles above but contains more detailed mandatory requirements. A person who becomes a Member or co-opted Member of the Council may not act in that office until he/she has given the authority this written undertaking.

The monitoring officer of the Authority must establish and maintain a register of interests of the Members and co-opted members of the authority under section 81 of the Local Government Act 2000. Members and co-opted members must register all their financial and other interests as specified in the Code and do so before participating in any business of the authority related to those interests. The register of interests will be available for inspection by the public at all reasonable hours.

## **SCHEDULE**

### **THE MODEL CODE OF CONDUCT**

#### **Part 1**

#### **General provisions**

##### **Introduction and interpretation**

1. —(1) This Code applies to you as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—  
"meeting" means any meeting of—
  - (a) the authority;
  - (b) the executive of the authority;
  - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;"member" includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

##### **Scope**

2. —(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time,

where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

**General obligations**

**3.** —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

**4.** You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

**5.** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

**6.** You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **Part 2**

### **Interests**

#### **Personal interests**

8. —(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received

a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

Section A— Member Code of Conduct

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

**Disclosure of personal interests**

9. —(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14,



sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

**Prejudicial interest generally**

**10.** —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or(c) relates to the functions of your authority in respect of—Part five

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

**Prejudicial interests arising in relation to overview and scrutiny committees**

**11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your Authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your Authority's committees, sub-committees, joint committees or joint subcommittees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**Effect of prejudicial interests on participation**

**12.** —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the Overview and Scrutiny Committee of your Authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

**Part 3**

**Registration of Members' Interests**

**13.** —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your Authority; or

(b) your election or appointment to office (where that is later), register in your Authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

**Sensitive information**

**14.** —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that Part five interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation

**Written Undertaking**

I, ..... , being a member/co-opted member (delete as appropriate) of the London Borough of Haringey Council, undertake to observe the Code as to the Conduct which is expected of Members/co-opted members (delete as appropriate) of the London Borough of Haringey Council.

Signed.....Date .....

This undertaking was made and signed before me

Signed.....Date.....

**Proper officer of the Authority**

Alexandra Palace and Park Charity: Trustees Declaration of Interests

Name and address:	
<b>Consultancies and/or direct employment:</b> Any paid consultancy, employment, partnership, directorship or position in (or for) any organisation either directly or indirectly related to the work of the APPCT or APTL	
<b>Fee-paid work:</b> Any commissioned or fee-paid work for any organisation either directly or indirectly related to the work of the APPCT or APTL	
<b>Shareholdings:</b> Any shareholdings or other financial or beneficial interests in a private company or body that may give rise to a conflict of interest.	
<b>Fellowships/trusteeships and membership of voluntary bodies:</b> Any other outside interests which may be relevant to your role as a Board Member of the APPCT, eg unremunerated posts, honorary positions and other connections, which may give rise to a conflict of interest or of trust,	
<b>Any other personal interests not covered above:</b>	
<b>Non-personal interests:</b> Any relevant and known interests held by your spouse, a close family member, or a member of your household, which may provide a conflict of interest with your position as a Board Member of the APPCT.	

Trustees who are uncertain as to whether an interest must be declared should seek further guidance from the General Manager.

Signed..... (Trustee)      Date.....

**SCHEDULE 2**

## Constitution and Terms of Reference

### 1 Background

- 1.1 This schedule sets out the constitution and terms of reference of the Charity Board and key committees that have been established in support of it. These are also set out in a diagram at the attached Schedule. It includes, at Appendix A relevant extracts from Haringey's Standing Orders that cover Council and Committee procedures, Miscellaneous Standing Orders and Access to Information and limitations on delegated powers.

### 2 Alexandra Park and Palace Act 1985

- 2.1 An Act to amend the Alexandra Park and Palace (Public Purpose ) Act 1900, the Alexandra Park and Palace Act 1913 and the Alexandra Park and Palace Order 1966; to confer powers on the Council of the London Borough of Haringey as trustees with respect to the Alexandra Park and Palace ; and for other purposes.

### 3 The Board (Extracts from Haringey's Constitution adopted in May 2007)

- 3.1 These were set by Haringey Council on 27 May 2002 and consist of;

To fulfil the functions, powers and duties of the Council as Trustee of Alexandra Palace and Park under the Alexandra Park and Palace Acts and Order 1900 to 1985 and, without prejudice to the generality of this, these functions include:

- a) The duty to uphold, maintain and repair the Palace and to maintain the Park and Palace as a place of public resort and recreation and for other public purposes.
- b) Acting as the employing body for employees engaged in the working of the Trust at Alexandra Palace and to be responsible for the setting of staffing policies, conditions of service and terms of employment of those employees.
- c) In relation to the Trust, being responsible for developing and monitoring the implementation of effective policies and practices to achieve equality of opportunity both for employment and service delivery.

The Board consists of 7 councillors appointed by Haringey Council and reflect the political balance of the Local Authority. The Secretary to the Board is the Committee Clerk at Haringey Council

COMMITTEE & MEMBERSHIP	NO. OF MEMBERS

<p><b>Alexandra Palace &amp; Park Board</b>                  Cllr Egan (Chair)                  Cllr Dogus (V.Chair)                  Cllr Peacock                  Cllr Hare                  Cllr Oakes                  Cllr Williams                  Cllr Stanton</p>	<p>4 Lab, 3 L/D Members plus 3 non-voting Members from Consultative Committee.  <i>Members of the Cabinet may not sit on the Board in accordance with the advice of the Charity Commission.</i></p>
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**4 Alexandra Palace and Park Panel**

4.1 Arising from the Council's role as trustee of Alexandra Palace and Park the following additional bodies shall be established. The Terms of Reference of the additional bodies shall be as follows:

**1. Alexandra Palace and Park Panel**

The Panel is composed of five trustees and selected with reference to political balance .It must consist of a minimum of three when it meets and trustees should select who their nominated Deputy will be at the start of the year should they be unavailable if the Panel needs to meet.

To consider and take decisions upon urgent matters arising between ordinary meetings of the Alexandra Palace and Park Board.

<p><b>Alexandra Palace &amp; Park Panel</b>                  Cllr Egan(Chair)                  Cllr Dogus (V.Chair)                  Cllr Peacock                  Cllr Hare                  Cllr Williams</p>	<p>3 Lab, 2 L/D Members</p>
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**5 Alexandra Palace and Park Consultative Committee**

5.1 The Committee consists of 7 Councillors and up to 30 community representatives.  
 (a) To give representatives of appropriate local and national organisations the opportunity of full discussion with Members of the Alexandra Palace and Park Board on general matters affecting Alexandra Palace and Park.  
 (b) To give Members of the Alexandra Palace and Park Board the opportunity of discussing and explaining to the organisations matters affecting the overall policy and efficient management of Alexandra Palace and Park.

- (c) To promote better understanding between Members of the Alexandra Palace and Park Board, the Palace Management and local organisations.
- (d) To enable appropriate local (and national) organisations to be fully consulted on decisions of direct concern to them.
- (e) To promote the best interests of the Alexandra Palace and Park as a conservation area.

<p><b>Alexandra Palace Consultative Committee</b>                  Cllr Egan (Chair)                  Cllr Dogus (V.Chair)                  Cllr Peacock                  Cllr Hare                  Cllr Oakes                  Cllr Williams                  Cllr. Stanton</p>	<p>4 Lab, 3 L/D Members plus up to 30 outside Representatives</p>
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**6. Alexandra Palace and Park Consultative Forum**

- 6.1 It's membership consists of 4 Councillors plus 4 Trade Union representatives.
- (a) To be a forum for consultation and negotiation between the Alexandra Palace and Park Board and its employees, on issues in relation to Conditions of Employment.
  - (b) To consider issues referred directly by Management or by the Trade Unions in consultation with the Employer's Side Secretary.
  - (c) To provide a means whereby the Alexandra Palace and Park Board can consult Union representatives on policies and strategies and provide an arena for discussion of matters of mutual interest.
  - (d) To provide a means of effective communication, in order to prevent or eliminate friction and misunderstanding.

<p><b>Alexandra Palace &amp; Park Consultative Forum</b>                  Chair to be Employer Side Rep in 2008/09.                  Cllr Egan (Chair)                  Cllr Dogus (V.Chair)                  Cllr Peacock                  Cllr Hare                  Cllr Oakes</p>	<p>3 Lab, 2 L/D Members plus 4 Trade Union Representatives</p>
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The Consultative Forum may not consider any matter concerning an individual employee, nor any issues that fall within the scope of other existing procedures, e.g. dismissal appeals, individual grievances and individual salary issues; such matters may only be raised as a matter of principle/policy.

**7 The Alexandra Palace and Park Statutory Advisory Committee (including Urgency Sub Committee)**

Its membership is defined by the 1985 Act. It consists of 8 Councillors, 6 of whom come from the adjoining wards to the Palace and 2 from other wards of the Council together with 8 nominees.



This is an external body established under the terms of the Alexandra Park and Palace Act 1985. Its functions, as laid down by the Act are as follows: -

'The powers and duties of the Advisory Committee shall be to promote the objects of the charity and assist the Trustees in fulfilling the trusts by considering and advising the Trustees on the following matters.-

- a) the general policy relating to the activities and events arranged or permitted in the Park and Palace;
- b) the effects of such activities and events upon the local inhabitants and local environment;
- c) the frequency of activities and events attracting more than 10,000 people at any one time and maximum number to be permitted on such occasions;
- (d) the adequacy of car parking arrangements within the Park and Palace so as to avoid overflow into adjoining residential streets;
- (e) any proposals which require planning permission;
- (f) the establishment and maintenance of the Park as a Metropolitan Park;
- (g) the furtherance of recreation and leisure in the Alexandra Park and Palace

<b>Alexandra Palace and Park Statutory Advisory Committee</b> Cllr Oatway Cllr Demirci Cllr Beynon Cllr Whyte Cllr Rainger Cllr Harris Cllr Newton Cllr Patel	Also include 8 nominees with Chair being one of these
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**Appendix A**

**Extracts from Haringey's Standing Orders**

**Part Four Rules of Procedure Section A**

**23.1 General conduct**

Members are required to comply with the Code of Conduct at all times. Where necessary and appropriate the Mayor will remind members of their responsibilities under the Code during the course of the meeting.

**25. DECLARATIONS OF INTEREST OF MEMBERS**

If a member of the Council has a personal interest as referred to in Part 2 of the Council's Code of Conduct for Members in any matter under consideration, then the member shall declare his or her interest at the start of the meeting or as soon as the interest becomes apparent. If the interest is considered prejudicial the member should withdraw from the meeting until discussion of the relevant matter is concluded unless that member has obtained a dispensation from the Council's Standards Committee.

**32. ALEXANDRA PARK AND PALACE**

Before full Council considers any matter, acting in its capacity as the statutory trustee of Alexandra Park and Palace trust, the Chief Executive shall read out the following reminder to Members: "When discharging the trustee function the Council must have regard to its duties as the trustee to the exclusion of all other matters. These duties include the obligation to act in the best interests of the charity above all other considerations. Similarly, each Member is under a duty, to the extent that it lies within the Member's power, to secure that the Council fulfils its duties as the trustee and, conversely, that the Council does not commit any breach of trust."

**Part Four, Section B**

**Committee Procedure Rules**

1. The Council at its annual meeting shall establish such Committees, Sub-Committees and other bodies as may be required by law or be necessary to carry out the work of the Council, and shall prescribe the number of voting members of each Committee or other body having regard to political balance in accordance with the 1989 Act, define their terms of reference and delegate to them such functions, powers and duties (except the power of levying the Council Tax) as the Council shall think fit or statute may require.

2. The Council may resolve that non-voting members, assessors and advisers shall also be appointed to any such committee or other body, and shall hold office until the annual meeting in the year following their appointment or for so long as the Council deem appropriate, whichever is the earlier; and if they resolve to make such appointments, shall specify the number of appointments to be made and the functions in relation to the body that each person so appointed may exercise.

12. The meetings of Committees and Sub-Committees shall be organised in accordance with a timetable approved each year by the Council and/or the Cabinet. The Chair may call a

special meeting and may agree to the cancellation of a meeting on being satisfied that there is insufficient business to warrant it. Dates of meetings may be changed to a date decided by the Chair if it is in the interests of the Council's affairs or in the public interest to do so.

#### **CHAIRS AND DEPUTY CHAIRS OF COMMITTEES, SUB-COMMITTEES, ETC**

20. At each annual meeting, the Council shall appoint the members of the Cabinet and a Chair and Deputy Chair(s) for every Committee, Sub-Committee and other body for the year ahead, unless the constitution provides otherwise. If a vacancy arises during the year, the Chief Executive shall report to the next ordinary meeting of the Council to enable a member to be appointed to fill the vacancy.

#### **QUORUM**

25. No business shall be transacted at any meeting of a committee, sub committee or other body, unless at least one quarter of the whole number of voting members are present, provided that in no case shall any business be transacted unless at least two voting members are present.

#### **LIMITATION ON DELEGATED POWERS**

28. Each Committee, Sub-Committee, or other body shall act in accordance with the Terms of Reference and Scheme of Delegation of Powers as approved by the Council (and in accordance with its own constitution) subject to the following general reservations:-

(a) Where powers have been delegated to a Committee, Sub-Committee, or other body it shall be competent for that body to refer any matter to the next higher authority for decision by them and the Head of Local Democracy & Member Services shall so arrange. A Chair of a body may, within two working days after the date of a decision being made and before definitive action has been taken, delay by written notice to the Head of Local Democracy & Member Services, such definitive action to enable the decision to be confirmed or otherwise by the next higher authority.

(b) A matter referred by a joint body to the higher authority under sub-clause (a) above shall be submitted to the relevant parent

#### **CONFIRMATION OF MINUTES**

32. Minutes of every meeting shall be presented to the next ordinary meeting.

33. The Chair shall put the question that the minutes of the meeting held on the (date) be confirmed as a correct record and signed.

34. No discussion shall take place upon the minutes except upon their accuracy. If no question is raised, or if it is raised then as soon as it has been disposed of, the Chair shall sign the minutes.

#### **RULES OF DEBATE**

35. Meetings are to be conducted with as little procedural formality as is consistent with the need for good order and the despatch of business.

36. The Chair shall conduct the debate and shall seek to prevent a member from wasting time, being repetitive or using unbecoming language. In matters of doubt the Chair shall have regard to the appropriate provisions of these Standing Orders. Each speaker must

direct his or her speech to the question under discussion, or to a point of order, or to a personal explanation.

**CHAIR'S PREROGATIVE ON INTERPRETATION OF STANDING ORDERS**

56. The ruling of the Chair on the interpretation or application of any of these Standing Orders, or on any proceedings of the Committee, Sub-Committee, Panel or other body, shall not be challenged.

**Part Four, Section C  
Miscellaneous Standing Orders**

**3. PAPERS AND ADVICE**

- (1). The agenda and papers for consideration at any meeting will normally be despatched to appropriate members of the Council leaving at least 5 clear days before the meeting.
- (2). Services shall ensure that all papers are delivered to the Head of Local Democracy & Member Services leaving at least 7 clear days before the meeting (e.g. on Friday for a meeting on Wednesday 12 days later).
- (3). The Chair of a Committee, Sub-Committee, or other body may only allow a late item/report to be considered at a meeting if satisfied that there are special circumstances. The special circumstances which, in the Chair's opinion, justify such action must be recorded in the Minutes of the meeting.
- (4). The agenda and papers for any part of a meeting open to the public shall be made available for inspection by members of the public.

**4. CONFIDENTIALITY OF REPORTS**

**Exempt Reports**

(1). Reports and documents which are to be presented to meetings of the Council or of Committees, Sub-Committees, or other bodies and which in the opinion of the Head of Local Democracy & Member Services, are likely to be the subject of a resolution to exclude the press and public from the proceedings on any of the grounds set out in the Local Government Act 1972 Schedule 12A and related or amending legislation must be marked in the top right hand corner "Not for Publication" because they contain exempt information. Categories of exempt information are set out in the Access to information Procedure Rules in Part 4 of this Constitution.

**Confidential Reports**

(2). Reports containing confidential information under the Access to Information Procedure Rules in Part 4 of this Constitution must be marked on the top right hand corner setting out the category of confidential information.

**Duty not to disclose information**

(3). It shall be the duty of all Council Members, other voting and non-voting members of committees or other bodies, assessors and advisers appointed to committees or other bodies and Officers of the Council not to disclose any information contained in reports and documents classified as 'confidential' or 'exempt' until the Committee, Sub-Committee or other body in question decides to make the information public, and appropriate sanctions will be taken in the event of this being breached.

**Declassification of exempt reports**

(4). It shall be the responsibility of the Proper Officer (Head of Local Democracy & Member Services) to determine as necessary whether at any future date it is appropriate to declassify any exempt reports.

**5. INSPECTION OF DOCUMENTS**

(1). A member of the Council shall have the right to inspect and be provided with copies of the following documents in the Council's possession or under its control in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.

(2). A member must not use any information obtained in the exercise of the rights under this rule for any purpose other than the performance of his/her role as a member of the Council and must not knowingly inspect or request copies of any document relating to any matter in which he or she is professionally or personally interested or in which he or she has a personal or prejudicial interest under the Members' Code of Conduct. A member should never disclose or use confidential or exempt information for the personal advantage of him/herself or of anyone known to them, or to the disadvantage or discredit of the Council or anyone else.

#### **6. INSPECTION OF LAND AND BUILDINGS**

No member of the Council and no other member (whether voting or non-voting) of a committee, sub-committee or other body shall have any claim by virtue of his/her position:

(a) to enter any land or buildings occupied by the authority to which the public do not have access or to which members of the Council do not regularly have access except with the permission of the chief officer responsible for the service of the Council for which the land or buildings are occupied;

(b) to exercise any power of the authority to enter or inspect other land or buildings, except where specifically authorised to do so by the authority;

(c) to exercise any other power of the authority;

(d) to issue any order with respect to any works which are being carried out by, or on behalf of, the authority, or with respect to any goods or services which are being, or might be, purchased by the authority.

#### **7. ABSENCE FROM MEETINGS**

Any member who for six months fails to attend any meeting of the authority or its committees, sub-committees or other bodies shall cease to be a member unless within that period his or her absence is approved by the Authority.

#### **8. STATEMENT OF ATTENDANCES**

A statement showing the actual and possible attendances of each member at meetings of the Council and its Committees and Sub-Committees since and including the last annual meeting shall be presented annually to the Council at its last meeting in each municipal year and be entered in the minutes. In addition, Members' attendance at meetings of other bodies - appointments, appeals, grievance panels and other bodies with variable membership may also be reported.

#### **9. MATTERS AFFECTING NAMED INDIVIDUALS OR COUNCIL EMPLOYEES OR FORMER COUNCIL EMPLOYEES**

(1). If, during the course of a meeting, an issue arises concerning a named individual or about an individual Council employee or former Council employee, the body must first decide whether or not to exclude the public and press before discussing the matter further and for this purpose the advice of the Monitoring Officer or his/her representative will be considered.

(2). At no time shall there be discussion of any individual employee or former employee subject to outstanding disciplinary/appeal/grievance proceedings as such discussion could affect these proceedings.

(3). In the event of a Member wishing to criticise an individual employee or former employee of the authority the Member shall follow the provisions of the Protocol on Member/Officer Relations which provides for a complaint against an officer to be referred confidentially to the relevant Chief Officer. This shall not prevent Members from asking officers proper questions.

(4). In the event of a member having concerns about seriously improper, fraudulent or unlawful conduct by an officer the member should raise the matter confidentially with the Chief Executive under the Council's "Whistleblowing Policy".

**10. INTERESTS OF OFFICERS IN CONTRACTS AND OTHER MATTERS**

(1). If it comes to the knowledge of any employee of the authority, that he/she has a personal interest, direct or indirect, in any contract which has been, or is proposed to be, entered into by the authority, or in some other matter which is to be considered by the council or any committee or sub-committee, and which (in either case) is not

(a) the contract of employment (if any) under which he serves the authority

(b) the tenancy of a dwelling provided by the authority,

he/she shall as soon as practicable give notice in writing to the Head of Paid Service of the fact that he/she is interested therein.

(2). For the purposes of this standing order, a personal interest is an interest that, if the employee were a member of the council, and if the contract or other matter were to be considered at a meeting of the council at which he/she were present, he/she would have to disclose under the Members' Code of Conduct.

(3). The Head of Paid Service shall record in a book to be kept for the purpose particulars of any notice of a personal interest given by an employee of the authority. The book shall, during the ordinary office hours of the authority, be open for inspection by any member of the council.

**Part Four, Section D**

**Access to Information Procedure Rules**

**3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all formal meetings of the Council, its Committees and Sub-Committees and the Cabinet and its Committees, subject only to the exceptions in these rules.

**4. NOTICES OF MEETING**

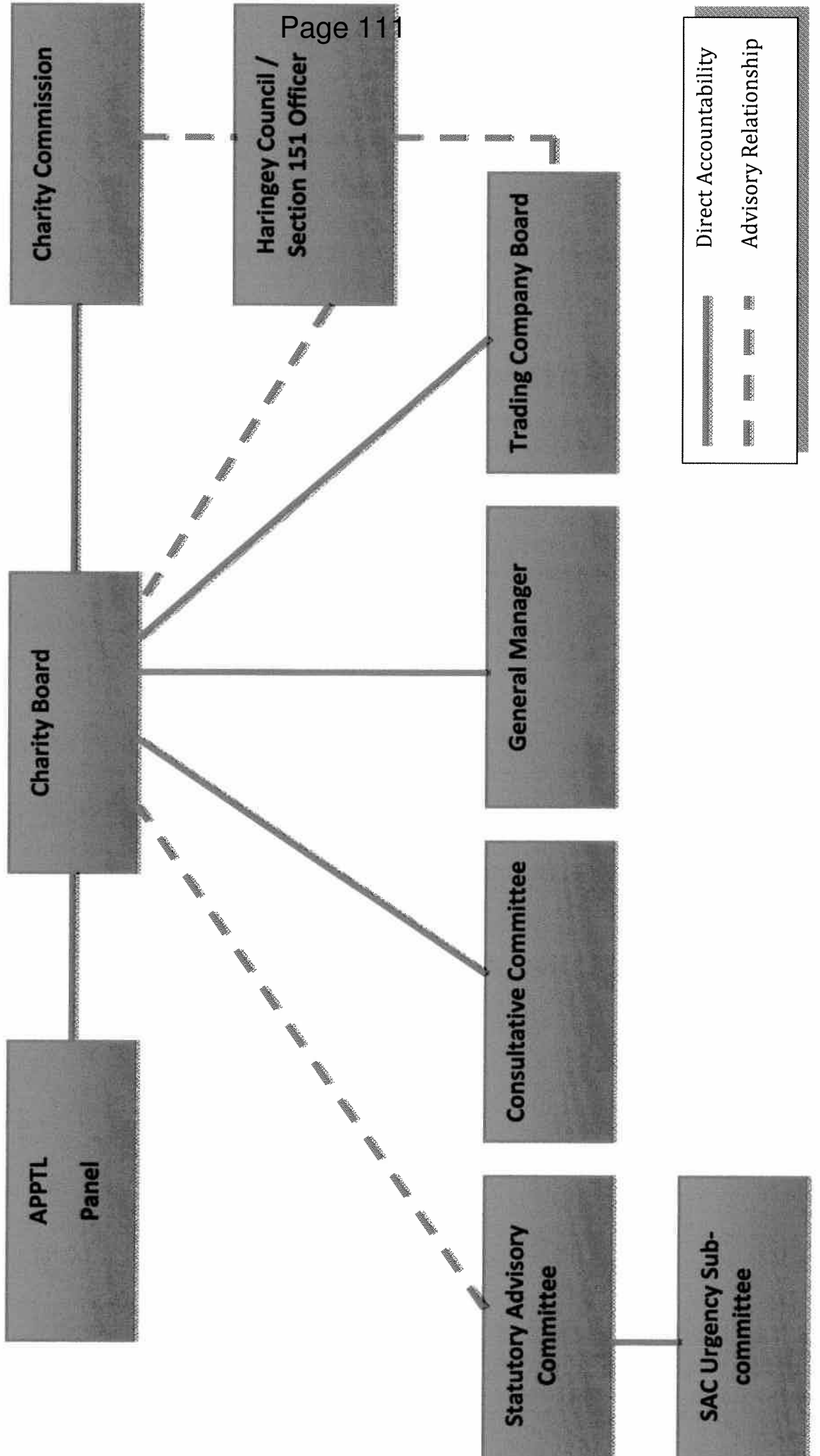
The Council will give at least five clear days notice of any meeting (unless the meeting is convened at shorter notice under the Council's urgency procedures) by posting details of the meeting at Haringey Civic Centre, High Road, Wood Green N22 8LE (the "designated office").

**5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later under the council's urgency procedures, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

# Alexandra Palace And Park Charitable Trust

## Governance Structure



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**SCHEDULE 3**

## Schedule 3

**PRINCIPLES OF GOOD GOVERNANCE****1 Background**

- 1.1 The following extracts from key documents set out the key principle of good governance and reflect those to be followed by Alexandra Palace and Park Charity. An overall perspective on governance is set out in The Hallmarks of an An Effective Charity - CC (Charity Commission) 60.

**“An effective charity is run by a clearly identifiable trustee body that has the right balance of skills and experience to run the charity effectively, acts in the best interests of the charity and its beneficiaries, understands its responsibilities and has systems in place to exercise them effectively.”**

- 1.2 Key extracts are set out below from the following Charity Commission documents

- A-Z of Good Governance
- Code of Governance Toolkit
- The Hallmarks of an Effective Charity
- The Essential Trustee; What you need to know
- Charities and Local Authorities

There is a complete list of guidance available from the Charity Commission set out at **Appendix A**

**2 A – Z of Good Governance (The Governance Hub)****2.1 Governance**

This is the process of overseeing an organisation. “ This involves ensuring that an organisation’s work contributes to its mission and purpose and its resources are used widely and effectively”

**2.2 Accountability**

The person or organisation explains their decisions and actions to others. This covers;

- moral accountability to people served, funders and staff
- legal accountability for annual reports, accounts, health and safety

**2.3 The Board**

The governing body and should consist of people with” a good range of different skills, knowledge and experience which when combined can be used to steer the organisation effectively. Key principles are delegation, equality and diversity”

**2.4 The Chair**

-To provide leadership and direction to the Board, enabling them to carry out their roles effectively for the good of the organisation

-To help the Board set long term plans for the future of the organisation

-To run the meetings, approve the agenda, ensure good participation and decision making and help the Board work as a team

-To work alongside the Chief Officer in ensuring that the decisions of the Board members are acted upon

**2.5 Trustees’ main roles**

- Set and maintain vision, mission and values –the board is responsible for establishing the essential purpose of the charity. They are responsible for guarding the ethos and values of the charity.

-Develop strategy – Board and General Manager to develop this and make sure meeting agendas reflect discussion about progress.

- Establish and monitor policies – create policies to govern organisational activity, for staff and /or volunteers, systems for reporting and monitoring, an ethical framework for everyone connected with the charity and the conduct of trustees and board business
- Ensure compliance with Governing Document – Trustees must ensure that this is followed in particular that the charities activities comply with its objects
- Ensure accountability- must meet accountability requirements that include the Charity Commission, Her Majesty’s Revenue and Customs and the Registrar of Companies including annual reports and accounts. It must also be accountable to stakeholders such as donors, beneficiaries, staff, volunteers and the general public
- Ensure compliance with the law – Trustees must check that all activities are legal
- Maintain proper financial oversight- Trustees are responsible for effectively managing the Charity’s resources and funding so that it can meet its objects. Specifically the Charity secures sufficient resources to fulfil its mission, monitors spend, approves annual financial statements and budgets, protects the Charity against liability by providing insurance, seeks to minimise risk, participates in fund raising and ensures compliance with the law.
- Set up employment procedures – the Board creates comprehensive, fair and legal personnel policies that protect the organisation and those who work for it. These should cover recruitment, support, appraisal, remuneration and discipline
- Select and support the General Manager/ Chief Executive – select and support their appointment as well as monitor performance.
- Respect and support the role of staff/volunteers – the Board recognises and respects the roles of staff/and or volunteer responsibilities. It creates policies to guide staff and /or volunteers activities and safeguard the interests of the Charity
- Maintain effective board performance – it engages in productive meetings, effective committees with adequate resources, development activities and regular reviews of its role. It is responsible for overseeing trustee board recruitment.
- Promote the Charity – trustees enhance and protect the reputation of their charity through acting as ambassadors.

Details of a framework produced by the Charity Commission to assist in the recruitment, training and induction of trustees is set out at **Appendix B** to this Schedule

2.6 **Information**

Timely, clear, concise, relevant and good quality

2.7 **Key Positions**

Chair- visionary, leader, organised good understanding decisive

Honorary Treasurer- proven financial experience, ability to understand and present information clearly issue raised with David in list of questions

Secretary- able to summarise key points, good writing skills, well organised

2.8 **Qualities of a good trustee**

Committed to the Charity, team player, good listening skills, contributes to planning, time to give, aware of responsibilities, promotes the Charity

2.9 **Skills**

Advisory – providing expert advice and knowledge to help the Charity make decisions and support its functioning.

Regulatory – ensuring that the Charity meets its legal and other requirements

Democratic – taking particular interest in different stakeholders to ensure that the Charity has direction and that they are brought into the governance debate

Educational – stimulating debate, learning and sharing expertise

Participatory – seeking and supporting the views of users in decision making

Networking – being an ambassador promoting the charity and bringing in important contacts

Involving – motivating and developing board members

Visionary – bringing passion to the objects of the Charity and inspiring others to be motivated

Leaders – steering the Charity in the right direction

Supporters – providing support to the staff and volunteers in the Charity

2.10 **Potential Risks**

Spending money on activity outside objects of charity

Unpermitted political activity

Fraud

Serious negligence

Failure to protect Charity property

Personal benefit

Acting as trustees or chief officer when disqualified

Failure to comply with legal requirements

2.11 **Reduction of risk**

Clear roles and responsibilities, record of decisions, regular review and adhering to governance document, ensuring good management and obtaining professional advice

2.12 **Nolan principles**

These set out the key principles to be followed by individual trustees and are covered in detail in Schedule 2

2.13 **Seven key principles**

These set out the collective principle to be followed by the Board of Trustees;

**Board leadership**- trustees to collectively ensure delivery of objects, strategic direction and upholding of values

**Board in control**- trustees to be responsible and accountable for ensuring and monitoring that the Charity is performing well, is solvent and complies with obligations

**High performance Board**- trustees have clear responsibilities and functions and should compose and organise itself to discharge them effectively

**Board review and renewal** – trustees to periodically review their own and the Charity's effectiveness and take steps to ensure both to continue to work well

**Board delegation** – trustees to set out functions of sub committees, the General Manager and other staff and monitor their performance

**Board Integrity** - trustees to act according to high ethical standards and deal with conflicts of interest effectively

**Board openness** - trustees to be accountable

**3 Code of Governance Toolkit (The National Council for Voluntary Organisations)**

3.1 **General**

Governance is defined as “ the systems and processes concerned with ensuring the over direction, effectiveness, supervision and accountability of an organisation”. Good governance can mean a confident, forward thinking organisation, where the trustees are abreast of their duties and activities and services are well planned and well managed.

3.2 The Toolkit is based on the national Code of Governance for the Voluntary and Community Sector. Features of good governance include Committees, recruiting trustees, risk management and planning

3.3 The Code looks at principle and practices of good governance in an organisation; National Occupational Standards (NOS) for Trustees and Management Committee members explain skills and knowledge that trustees need to develop.

3.4 **Trustees**

Full voting members of the governing body

Entrusted with the assets of the organisation

Operate within a formal set of rules/constitution  
Company directors and trustees can be the same people  
Delegate tasks to staff or volunteers

3.5 **Duties of trustees**

Comply with governing document  
Duty of care – act reasonably and prudently according to own expertise  
Comply with charity and company law as appropriate  
Protect the charity's property  
Act in best interests of beneficiaries and avoid conflicts of interest  
Act collectively  
Seek advice where they do not have expertise  
Not financially benefit unless authorised

4 **The Hallmarks of an Effective Charity (Extract from Charity Commission guidance CC10 July 2008)**

4.1 Six hallmarks or principles have been identified

**Hallmark 1: Clear about its purposes and direction**

**An effective charity is clear about its purposes, mission and values, and uses them to direct all aspects of its work.**

In order to demonstrate this, the charity;

**ensures that its mission and planned activities are within the purposes set out in its governing document; (legal requirement)**

-has a clear idea of its mission, and the strategies and steps that it will take to achieve it, set out in written documents that are regularly reviewed, giving the charity focus, direction and clarity;

-is able to explain how all of its activities relate to and support its purposes, strategy and mission, and benefit the public;

-regularly reviews whether the charity's purposes as set out in its governing document are up to date and relevant to the needs of its beneficiaries;

**-is independent and recognises that it exists to pursue its own purposes and not to carry out the policies or directions of any other body; (legal requirement)**

-considers future sustainability – balancing what is needed now with what will be needed in the future.

**Hallmark 2: A strong board**

**An effective charity is run by a clearly identifiable board or trustee body that has the right balance of skills and experience, acts in the best interests of the charity and its beneficiaries, understands its responsibilities and has systems in place to exercise them properly.**

In order to demonstrate this, the charity:

**-ensures that the trustee body is constituted in accordance with the governing document (legal requirement)**

-identifies the mix of skills, knowledge and experience necessary for the efficient and effective administration of the charity and ensures that the recruitment and appointment of new trustees provides adequate opportunities for re-assessing and achieving that mix;

-has a trustee body that is the right size for the charity – large enough to include the skills and experience needed to run the charity effectively, but small enough to allow effective discussion and decision making;

-has a clear understanding of the respective roles of the trustee body and staff with role descriptions for trustees and charity officers (such as the Chair and Treasurer); ensures that

the charity's committees, staff and agents have clear and appropriate delegated authority to carry out their designated roles in delivering the charity's purposes. It also has systems in place to monitor and oversee the way in which delegated powers are exercised;

**-undertakes all appropriate checks to ensure that a prospective trustee is both eligible and suitable to act in that capacity. For some charities there may be a legal requirement to seek CRB disclosures for potential (and serving) trustees (legal requirement)**

-identifies and meets the individual induction, training and development needs of trustees and has in place a framework for evaluating board and trustee performance;

**-ensures its trustees understand that they must act only in the charity's interests and that any conflicts of interest are identified and managed; (legal requirement)**

**- identifies and complies with relevant legislation and takes professional advice where necessary. (legal requirement)**

### **Hallmark 3: Fit for purpose**

**The structure, policies and procedures of an effective charity enable it to achieve its purposes and mission and deliver its services efficiently.**

In order to demonstrate this, the charity:

-regularly reviews its governing document to ensure that it is up to date and that the trustees have the powers that they need in order to achieve the charity's purposes and to manage its resources effectively;

-takes appropriate steps to protect its reputation in all aspects of its work, especially in its dealings with beneficiaries and others with an interest in the charity;

-implements policies and procedures to ensure that all vulnerable beneficiaries are protected from abuse;

-regularly reviews and assesses the risks faced by the charity in all areas of its work and plans for the management of those risks;

-regularly reviews its structures, policies and procedures to ensure that they continue to support, and are adequate for, the delivery of the charity's purposes and mission; this includes policies and procedures dealing with board strategies, functions and

-responsibilities; good employment practices and the encouragement and use of volunteers;

-recognises, promotes and values equality and diversity in beneficiaries, staff and volunteers, and in all aspects of its activity;

-considers whether collaborations and partnerships (including the possibility of a merger) with other organisations could improve efficiency, the use of funds and the better delivery of benefits and services to beneficiaries.

### **Hallmark 4: Learning and improving**

**An effective charity is always seeking to improve its performance and efficiency, and to learn new and better ways of delivering its purposes. A charity's assessment of its performance, and of the impact and outcomes of its work, will inform its planning processes and will influence its future direction.**

In order to demonstrate this, the charity:

-has considered how to identify, measure and learn from the charity's achievements, impacts and outcomes, including the positive and negative effects that it has on beneficiaries, others with an interest in the charity and the wider community;

-sets achievable targets and indicators against which success and improvement is measured and evaluated based on the purposes of the charity, the needs of its beneficiaries, the quality of its services and the resources available;

- welcomes and acts upon feedback (positive as well as challenging) from its beneficiaries and other people with an interest in the charity about the services it provides and the areas where improvements could be made;
- looks at and assesses innovative and imaginative ways of working towards achieving its purpose and aims;
- identifies emerging trends in the environment in which it operates and uses this information as part of its planning processes;
- identifies and uses opportunities to influence the environment in which it works to be more conducive to its mission and purposes, following the law and good practice when campaigning or lobbying;
- is not complacent but is engaged in a process of continual improvement, using techniques and tools best suited to its size and activities, such as recognised quality systems and benchmarking, in order to improve its own future performance;
- is ready to share good practice with others.

#### **Hallmark 5: Financially sound and prudent**

**An effective charity has the financial and other resources needed to deliver its purposes and mission, and controls and uses them to achieve its full potential.**

In order to demonstrate this, the charity:

- has policies to control and manage its reserves, investments and borrowing, taking professional advice where needed;
- integrates financial planning with wider organisational planning and management, ensuring that funds are available when the charity needs them and are used in the most effective way to the benefit of the charity;
- ensures financial sustainability by managing cash flow and monitoring and reviewing financial performance during the year, taking timely corrective action where needed;
- considers the sources of its income and has a strategy in place to raise the funds it needs - diversifying its sources of income as far as possible;
- reviews its fundraising strategies and activities to ensure that they comply with good-practice standards, taking account of any relevant ethical issues;
- is aware of the financial risks involved with existing and new ventures and manages the risk of loss, waste and fraud by having robust financial controls and procedures in place;
- structures the charity's activities in a tax efficient way and minimises the operational risk to the charity from trading activities;
- prepares its Annual Report and accounts in accordance with good practice requirements, and fulfils the legal requirements for filing in a timely fashion.(legal requirement)**

#### **Hallmark 6: Accountable and transparent**

An effective charity is accountable to the public and others with an interest in the charity (stakeholders) in a way that is transparent and understandable.

In order to demonstrate this, the Charity:

- complies with its legal obligations (and best practice), as set out in the Statement of Recommended Practice (SORP), to produce annual accounts and a report which includes an explanation of what the charity has done for the public benefit during the year (legal requirement)**
- explains in its Annual Report the extent to which it has achieved its charitable purposes in a way that people with an interest in the charity can understand;
- has well-publicised, effective and timely procedures for dealing with complaints about the charity and its activities. These should explain how complaints and appeals can be made, and give details of the process and likely timescales;

- can show how it involves beneficiaries and service users in the development and improvement of its services; the contribution may have been by way of the appointment of beneficiaries as trustees or their involvement through discussion, consultation or user group input;
- has a communications plan which ensures that accurate and timely information is given to everyone with an interest in the work of the charity, including the media, donors and beneficiaries.

## **5 The Essential Trustee; What you need to know ( CC3 February 2008)**

- 5.1 Trustees have and must accept ultimate responsibility for directing the affairs of a charity, and ensuring that it is solvent, well-run, and delivering the charitable outcomes for the benefit of the public for which it has been set up.
- 5.2 Compliance – Trustees must:
- Ensure that the charity complies with charity law, and with the requirements of the Charity Commission as regulator; in particular ensure that the charity prepares reports on what it has achieved and Annual Returns and accounts as required by law.
  - Ensure that the charity does not breach any of the requirements or rules set out in its governing document and that it remains true to the charitable purpose and objects set out there.
  - Comply with the requirements of other legislation and other regulators (if any) which govern the activities of the charity.
  - Act with integrity, and avoid any personal conflicts of interest or misuse of charity funds or assets.
- 5.3 Duty of prudence – Trustees must:
- Ensure that the charity is and will remain solvent.
  - Use charitable funds and assets reasonably, and only in furtherance of the charity's objects.
  - Avoid undertaking activities that might place the charity's endowment, funds, assets or reputation at undue risk.
  - Take special care when investing the funds of the charity, or borrowing funds for the charity to use.
  - The trustees of every charity must ensure that its finances are used appropriately, prudently, lawfully and in accordance with its objects.
  - Trustees must act reasonably and prudently in all matters relating to the charity and must always bear in mind that their prime concern is the charity's interests. The charity's income and property must be applied only for the purposes set out in the governing document.
- 5.4 Duty of care – Trustees must:
- Use reasonable care and skill in their work as trustees, using their personal skills and experience as needed to ensure that the charity is well-run and efficient.
  - Consider getting external professional advice on all matters where there may be material risk to the charity, or where the trustees may be in breach of their duties.
- 5.5 The law says: The Trustee Act 2000 sets out what it calls the 'duty of care' – to exercise such care and skill as is reasonable in the circumstances having particular regard to:
- any special knowledge or experience that the trustee has or professes to have and where a trustee acts in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.
- 5.6 Delegating to employees: The trustees of some charities may need to delegate decisions on day-to-day management matters to employees. In these cases the scope of the authority should be clearly laid down in writing and instructions given for decisions on important



matters to be reported to the trustees. Trustees should establish proper reporting procedures and clear lines of accountability.

- 5.7 Trustees always have the ultimate responsibility for running their charity. But they generally have the power to delegate certain powers to agents, subject to their governing document, and any relevant legislation. The Trustee Act 2000 says that trustees of unincorporated charities can delegate:
- carrying out a decision that the trustees have taken;
  - the investment of assets, including land subject to the trust;
  - raising funds for the trust other than by the profits of trade which is an integral part of carrying out the trust's charitable purposes; or
  - any other function prescribed by an order made by the relevant Secretary of State.
- 5.8 Someone acting as a delegate or agent of the trustees should always make clear in dealings with third parties that they are acting in that capacity (particularly if they are not an employee of the charity), and should always record in writing what was agreed in the conversation.
- 5.9 The Chair, as well as helping to plan and chair trustee meetings, may also be the link between the trustees and the employees and representing the charity at appropriate events. However, when it comes to making decisions about the charity, the trustees must take them together.
- 5.10 Trustees are responsible for the following with regard to accounting information
- maintenance and retention of accounting records;
  - preparation of charity accounts and Annual Reports;
  - audit or independent examination of accounts;
  - submission of accounts, Annual Reports and Annual Returns to the Charity Commission; and
  - availability of accounts to the public.

## 6 Charities and Local Authorities (CC29)

- 6.1. In some cases the governing document of a charity may give a local authority power to appoint some or all of the trustees of the charity.
- 6.2 Section 79 of the 1993 Act gives some local authorities powers to appoint trustees of certain types of charities. Those powers replace powers which were formerly in section 37 of the Charities Act 1960 and which first appeared in the Local Government Act 1894. Details of the present position are set out in the [Annex](#) to this guidance. (These trustees are appointed for a period of four years)
- 6.3 **Trustees appointed by a local authority (sometimes referred to as nominative or representative trustees) have exactly the same duties and responsibilities as other trustees.** They must act independently of the local authority which appointed them and act only in the best interests of the charity. There may well be occasions where such trustees will have to act in a way which conflicts with the interests of the local authority appointing them. In such circumstances the best interests of the charity must come first; this duty overrides all other considerations.
- 6.4 Where a conflict of interest arises in relation to a particular issue, for example in relation to a property transaction, the trustee concerned should not vote on it and should withdraw from any meeting at which it is considered.
- 6.5 The duties and responsibilities of trustees are more fully explained in The Charity Commission booklet [Responsibilities of Charity Trustees \(CC3\)](#).

*Appendix A**List of guidance available from the Charity Commission*

<b>Title</b>	<b>Date</b>
CC1 - Charity Commission Publications	Aug 2008
CC3 - The Essential Trustee: what you need to know	Feb 2008
CC3a - The Essential Trustee: An introduction	Jan 2007
CC5a, CC5b and CC5c - See <u>Registration Application Pack</u>	April 2008
CC7 - Ex Gratia Payments by Charities	Dec 2001
CC8 - Internal Financial Controls for Charities	Dec 2003
CC8 - A self checklist for charities	
CC9 - Speaking Out - Campaigning and Political Activity by Charities	Mar 2008
CC10 - Hallmarks of an Effective Charity	July 2008
CC11 - Trustee expenses and payments	June 2008
CC12 - Managing Financial Difficulties and Insolvency in Charities	Sept 2004
CC13 - The Official Custodian for Charities' Land Holding Service	Sept 2004
CC14 - Investment of Charitable Funds: Basic Principles See also <u>detailed guidance</u> on investments	Dec 2004

CC15 - Charity Reporting and Accounting: The essentials	May 2007
CC15a - Charity Reporting and Accounting: The essentials April 2008	April 2008
CC16 - Receipts and Payments Accounts Pack (based on SORP 2005)	Jan 2006
CC17 - Accrual Accounts Pack (based on SORP 2005)	Jan 2006
CC18 - Use of Church Halls for Village Hall and Other Charitable Purposes	July 2001
CC19 - Charities' Reserves	Mar 2008
CC20 - Charities and Fundraising	April 2008
CC20a - Charities and Fundraising - A summary	Mar 2002
CC21 - Registering as a Charity	April 2008
CC22 - Choosing and Preparing a Governing Document	April 2008
CC23 - Exempt Charities	April 2008
CC24 - Users on Board: Beneficiaries who become trustees	Mar 2000
CC27 - Providing Alcohol on Charity Premises	Nov 2002
CC28 - Disposing of Charity Land	Feb 2007
CC29 - Charities and Local Authorities	Mar 2001
CC30 - Finding New Trustees - What charities need to know	Oct 2007

CC31 - Independent Examination of Charity Accounts: Trustees' Guide	Oct 2008
CC32 - Independent Examination of Charity Accounts: Examiners' Guide	Oct 2008
CC33 - Acquiring Land	Apr 2001
CC34 - Collaborative Working and Mergers	July 2008
CC35 - Trustees, trading and tax	April 2007
CC36 - Changing your Charity's Governing Document	Nov 2008
CC37 - Charities and Public Service Delivery – An Introduction and Overview	Feb 2007
CC40 - Disaster Appeals	Jan 2002
CC42 - Appointing Nominees and Custodians: Guidance under s.19(4) of the Trustee Act 2000	Feb 2001
CC43 - Incorporation of Charity Trustees	July 2002
CC47 - Complaints about Charities	June 2008
CC48 - Charities and Meetings	May 2003
CC49 - Charities and Insurance	Feb 2007
CC61 - Charity Accounts: The framework	Oct 2002
CC61(a) - Charity Accounts: The framework (2005)	Jun 2006
CC61b - Charity Accounts: The framework (2007)	Feb 2007
CC63 - Independent Examination of Charities	Oct 2002
CC63a - Independent Examination of Charity Accounts 2007	Feb 2007

CC64 Receipts and Payments Accounts Pack 2001 (based on SORP 2000)	Nov 2001
Explanatory Notes	
CC64(a) - Receipts and Payments Accounts	
CC64(b) - Independent Examiner's Report on the Accounts	
CC64(c) - Trustees' Annual Report	
Example CC64 (a) – Accounts	
Example CC64 (c) – Report	
CC65 - Accruals Accounts Pack (based on SORP 2000)	Mar 2004
Explanatory Notes	
CC65(a) - Accounting Statement (Accruals Accounts)	
CC65(b) - Independent Examiner's Report on the Accounts	
CC65(c) - Trustees' Annual Report (Accompanying Accruals Accounts)	
CC66 - SORP 2000: Example reports and accounts	Nov 2000
Accounting & Reporting by Charities : Statement of Recommended Practice (SORP 2000)	Oct 2000
Accounting & Reporting by Charities: Statement of Recommended Practice (SORP 2005)	Mar 2005
SORP Update Bulletin 1	Jan 2003
RS1 - Trustee Recruitment, Selection and Induction	Mar 2002
RS1 - Trustee Recruitment, Selection and Induction Annexes	Mar 2002

RS2 - Charities and Commercial Partners	July 2002
RS2 - Charities and Commercial Partners - Annex A, B & C	July 2002
RS3 - Charity Reserves	Mar 2003
RS3 - Charity Reserves - Annex A, B, C & D	Mar 2003
RS3a - Charity Reserves: Key Findings	Mar 2003
RS4 - Collaborative Working and Mergers	Apr 2003
RS4 - Collaborative Working and Mergers: Annex A, B, C & D	Apr 2003
RS4a - Collaborative Working and Mergers: Summary	Mar 2003
RS5 - Small Charities and Reserves	June 2003
RS6 - Milestones: Managing key events in the life of a charity	Dec 2003
RS6 - Milestones: Managing key events in the life of a charity: Annex A, B, C, D & E	Dec 2003
RS6a - Milestones: Summary	Dec 2003
RS7 - Membership Charities	Mar 2004
RS7 - Membership Charities: Annex A, B, C & D	Mar 2004
RS7a - Membership Charities: Summary	Mar 2004
RS8 - Transparency and Accountability	June 2004
RS8 - Transparency and Accountability: Annex A, B, C & D	June 2004
RS9 - Village Halls and Community Centres	Dec 2004

RS9 - Village Halls and Community Centres: Annex A, B, C & D	Dec 2004
RS9a - Village Halls and Community Centres: Summary	Dec 2004
RS10 - Start as you mean to go on: Trustee Recruitment and Induction	July 2005
RS10 - Start as you mean to go on: Trustee Recruitment and Induction Annex A, B, C, D & E	July 2005
RS11 - Cause for Complaint? How charities manage complaints about their services	Mar 2006
RS11 - Cause for Complaint? How charities manage complaints about their services Annex A – E	Mar 2006
RS12 - The Regeneration Game	Oct 2006
RS13 - Tell It Like It Is	Nov 2006
RS14 - In their own words	Dec 2006
RS14 - In their own words Annex A – E	Dec 2006
RS15 - Stand and deliver: the future for charities delivering public services	Feb 2007
RS16 - Charities working in the field of human rights	Dec 2007
RS17 - Going Green: Charities and Environmental Responsibility	Dec 2008
RR1 - The Review of the Register of Charities	Oct 2001
RR1a - Recognising New Charitable Purposes	Oct 2001
RR2 - Promotion of Urban and Rural Regeneration	Mar 1999
RR3 - Charities for the Relief of Unemployment	Mar 1999

RR4 - The Recreational Charities Act 1958	Aug 2000
RR5 - The Promotion of Community Capacity Building	Nov 2000
RR6 - Maintenance of an Accurate Register	Nov 2000
RR7 - The Independence of Charities from the State	Feb 2001
RR8 - The Public Character of Charity	Feb 2001
RR9 - Preservation and Conservation	Feb 2001
RR10 - Museums and Art Galleries	Aug 2002
RR11 - Charitable Status and Sport	Apr 2003
RR12 - The Promotion of Human Rights	Jan 2005
RR13 Promotion of the Voluntary Sector for the Benefit of the Public	Sept 2004
RR14 Promoting the Efficiency and Effectiveness of Charities and the Effective Use of Charitable Resources for the Benefit of the Public	Sept 2004
Charities Act 2006: What Trustees Need to Know - a plain English guide published jointly by the Charity Commission and the Office of the Third Sector about this Act	May 2007
Working with Faith Groups - The Charity Commission Faith Groups Programme 2004 – 07	Dec 2007



## Appendix B

**Charity Commission Publication RS1 - Trustee Recruitment, Selection and Induction**

In our experience, boards of trustees are more likely to:

- recruit successfully if they do so openly and transparently, taking care neither to overstate nor understate the responsibilities involved;
- operate successfully if they offer a comprehensive induction programme during which new trustees are provided with the key information they need to run the charity; and
- command confidence and respect from their client base and wider community if they demonstrate diversity in the widest sense of skills, age, sex, race and background.

Our casework shows that failure to give enough attention to certain key areas in the recruitment process can and does lead to problems. Where such problems arise, we find that their root is frequently the governance provided by the trustees. Often, difficulties result from trustees not knowing or understanding their responsibilities; or not having access to basic information about the charity's structure and remit.

Trustee recruitment, selection and induction	
Stage one – preparing to recruit	
Do we regularly check our charity's governing document to make sure our recruitment process takes into account any restrictions in it?	
Do we regularly consider whether the restrictions in the governing document are workable?	
If the governing document says that some or all of the trustees must retire after a certain period in office, does the board plan ahead for this loss of skills and experience?	
Do we regularly review the skills, experience and input of our trustees?	
Do we carry out a skills audit of the trustee board to identify any gaps before recruiting new trustees?	
Do we draw up a trustee job description which will give prospective candidates a realistic idea of the duties and time commitment involved in being a trustee?	
Do we think, before recruiting, about what support we will give to new trustees, such as an induction tour or ongoing training?	

Stage two – the recruitment process	
Do we regularly review the methods we use to find new trustees?	
If we sometimes or always have difficulties finding new trustees, do we look at widening our methods of recruitment?	
Do we from time to time review the diversity of the trustee board to make sure it represents its community (whether a geographical community or a community of interest)?	
Do we know when trustees are eligible to act and are not disqualified, for example by	

charity or company law?	
Do we ask a new trustee to sign a declaration that they are eligible to act as trustee?	
Do we need to conduct Criminal Records Bureau checks on new trustees because our beneficiaries are children or vulnerable adults?	

Stage three –induction	
Do we have an induction process for new trustees which helps them to understand our charitable purposes, financial position and current issues facing the charity?	
Do we give new trustees an information pack or job description outlining their duties and responsibilities so that they are fully aware of their role?	
Do we give new trustees a copy of the charity’s governing document?	
Do we give new trustees a copy of the charity’s latest accounts?	
Do we give new trustees a copy of the charity’s minutes of recent meetings?	
Do we give new trustees copies of the Charity Commission’s booklets The essential trustee: what you need to know (CC3) and The Hallmarks of an Effective Charity (CC60)?	
If we are a company, do we make sure that new trustees have an understanding of company law?	
Do we have a procedure to manage potential conflicts of interest and are new trustees made aware of it?	

Stage four – after recruitment	
Do we need to provide further training and development to trustees to ensure that they can continue to make an effective contribution to the charity?	
Do we have a system of evaluation and review so that we can measure the effectiveness of our recruitment and induction procedure?	
Do we keep up to date with Charity Commission guidance and policy news?	

In our experience, to operate effectively, a trustee board needs a diverse mix of skills, backgrounds and experiences. As well as professional skills such as financial, legal and management, a charity will also benefit from people:

- with varied life experiences and perspectives;
- who represent the stakeholders it works with; and/or
- with an understanding of governance and the ability to think strategically.

From time to time, it is a good idea for a charity to carry out an analysis of the skills that the board needs to run the charity successfully. It is then possible to look at the board’s current composition to see if any key skills are lacking. A vacancy on the board is an ideal time for the other trustees to bring in new ideas and enthusiasm and to ensure that the trustee body remains fresh.

If the charity’s governing document states that some or all of the trustees must retire after a certain period of office, the trustee board will find it beneficial to consider the effect that that loss of skills and experience will have on the operation of the charity. If they are aware that this will happen, they will be able to plan more effectively for the future

**SCHEDULE 4**

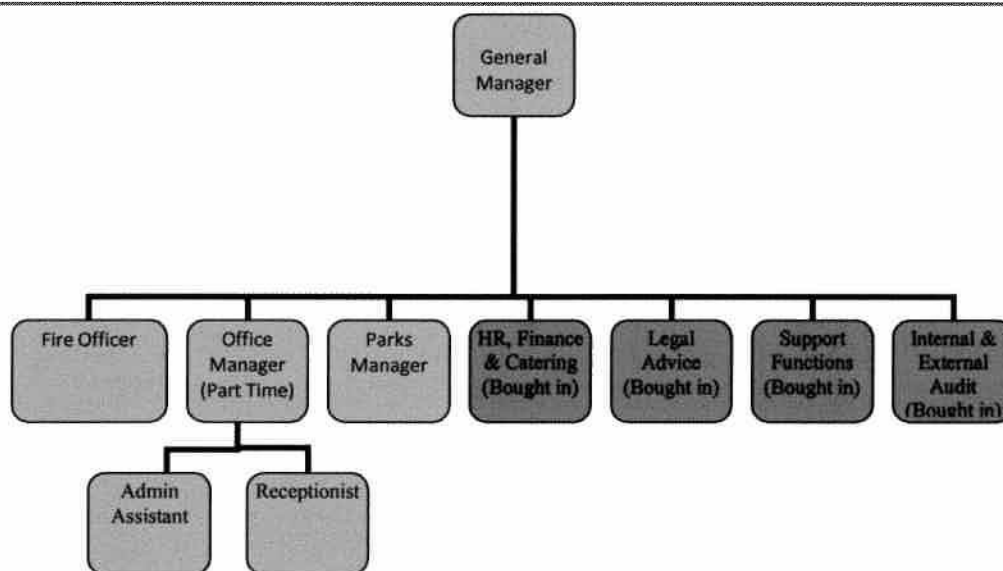
## Schedule 4

## Summary of the General Manager's role, responsibilities and delegated authority

### 1 The role of the General Manager

- 1.1 This role is part of the senior management structure of Haringey Council and is highlighted as such in the Council's documentation on standing orders. Its role is to direct and manage the work of the charity as directed by the Trustees and to report to the Board of Trustees on issues affecting the Park and Palace. The General Managers' overall authority is set out in Haringey's Standing Orders and extracts of the relevant sections of Part 3 Section E and Section 8 are set out below. These include general limitations on the responsibilities of the General Manager. **In addition it is proposed to add to these by specifying in more detail what the General Manager and staff cannot do. These are set out in sections 4 to 13 below.**
- 1.2 There is more detailed information about delegation of responsibilities covering financial regulations, including specific Directors' responsibilities, contract procedures and contract standing orders and these are set out at Appendix A.

### Organisation Chart



### 2 Scheme of Delegation (extract from Haringey's Standing Orders Part 3 Section E)

- 2.1 This scheme operates under Section 101, Section 151 and Section 270 of the Local Government Act 1972 in relation to the delegation of non-Executive functions by the Council. This scheme also operates under section 15 of the Local Government Act

2000 in relation to the delegation of Executive functions by the Cabinet. Senior Officers are authorised to exercise the functions of the London Borough of Haringey, both Executive and non-Executive relating to their areas of responsibility as set out in Appendix D of this Constitution. **(paragraph 3.02)**

- 2.2 This scheme includes the obligation on officers to keep Members properly informed of activity arising within the scope of these delegations and to ensure a proper record of such activity is kept and available to Members and the public in accordance with legislation. Therefore, each Director must ensure that there is a system in place within his/her Directorate which records any decisions made under delegated powers. **(paragraph 3.03)**

### **3 General Delegations (extract from Section 8 Haringey's Standing Orders)**

- 3.1 The Chief Executive, Assistant Chief Executives, Directors **and the General Manager of Alexandra Palace & Park** may exercise any functions, powers and duties of the Council to take management and operational decisions on behalf of the Council. They may take these decisions in accordance with the law in those areas of responsibility assigned to the respective Directorates in Part K of the Constitution from time to time:

- to secure the effective management of their services including the authorisation of any procedures or contracts within the framework of Financial Regulations and Contract Procedure Rules;
- to implement and develop initiatives within the strategic policy framework and other Council plans and policy documents;
- to act or authorise the carrying out of the functions of the proper officer of the Council assigned by the scheme of delegation.

- 3.2 This authorisation will include the power:

- to authorise the service of any statutory notice;
- to authorise officers to enter premises in pursuance of a statutory function of the Council;
- to authorise the institution of any process or proceedings for administering or enforcing the functions of the Council;
- to take action on any urgent matter between meetings of the Executive or any Committee or Sub-Committee of the Council subject to statutory provisions and relevant considerations.

- 3.3 This authorisation gives the Chief Executive, Assistant Chief Executives, Directors **and the General Manager of Alexandra Palace & Park** all the powers delegated to other senior officers within their Directorates and the right to exercise those powers in the place of those senior officers. This authorisation includes all the specific non-statutory and statutory powers set out below.

#### **Non-statutory delegations**

##### **Administrative and Legal Matters**

- Power to apply for a warrant to enter premises in exercise of his/her responsibilities
- Subject to the provisions of the Copyright Act 1963, authority to supply photocopies of documents to the general public subject to making such charges as may be agreed in a scheme approved by the Chief Executive and Director of Finance
- Power to authorise officers to enter land and where necessary to apply for warrant of entry
- Power to waive charges

- Power to authorise the recovery by legal proceedings of any sum to which the Council is entitled
- Power to appoint officers as authorised officers for any statutory purpose
- Power to deal with requests for access to Council premises by the media

3.4 **Personnel Matters**

- Changes to the establishment - affecting 20 or less posts - where the relevant employees' side are in agreement or have not raised objections within the agreed timetables, excluding in the case of the Education Service, the closure of service units\* (Note: consultation would be expected with the appropriate Executive Member in any event.)
  - Power to enter into and agree appropriate settlements for individuals at termination of employment or in legal proceedings including those reached by compromise agreement;
  - Power to designate posts as casual or essential users in accordance with criteria as determined by the Head of Personnel;
  - Approval of sickness pay (half and full pay) or extension beyond the national, provincial or local agreements;
  - Extensions of service in accordance with agreed procedures, beyond the age of 65
  - Approval of extension of special leave with pay;
  - Extensions of accident pay beyond the national, provincial or local agreements;
  - Grant of honoraria and where relevant ex-gratia payments to employees;
  - Power to appoint applicants above the minimum permissible increment point upon appointment;
  - Power to authorise accelerated increments;
  - Approval to changes to grades on various scales/conditions for all employee groups, except for Senior Management/Director Grades;
  - Re-designation of posts - subject to normal consultative procedures;
  - Decisions not to reclaim financial assistance granted under the Post-Entry Training Scheme;
  - Decision not to reclaim maternity pay;
  - Deletion of vacant, unfunded posts;
  - Approval of redundancies in accordance with the Council's redundancy policy and the approval of appropriate selection criteria in consultation with Head of Personnel;
  - Approval of minor changes in conditions of service established practice;
  - Appointments to vacancies and new posts below Assistant Director or equivalent level;
  - Dismissals and disciplinary action below Assistant Director or equivalent level in accordance with agreed procedures;
  - Approval of more than 5 days carry-over of annual leave to the following leave year.
- The powers relating to Personnel Matters, above, may also be exercised by the Assistant Director Business Support & Development in the Children's Service as well as by the Director of that Service.

The powers relating to Personnel Matters, above, may also be exercised by the Assistant Director Business Support & Development in the Children's Service as well as by the Director of that Service.

3.5 **Property Matters**

Any decision concerning the management or use of land held for the operational requirements of the officers of a Directorate may be taken by the relevant Director. Any

decision on the letting or disposal of land held for the Directorate shall be referred to the Director of Finance or the Head of Property in accordance with their respective delegated powers, unless it is a key or a relevant decision referred to The Executive or the appropriate individual Executive Member.

### 3.6 Statutory Delegations

<b>Local Government (Financial Provisions) Act 1963</b>	
Section 5	To defray expenses properly incurred by an officer of the Council.
<b>G.L.C (General Powers) Act 1969</b>	
Section 37(1)	Power to microfilm documents.
Section 37(4)	Power to designate to the officer who shall certify microfilm copies for evidence in Court
<b>Local Authorities (Goods &amp; Services) Act 1970</b>	
Section 1	To enter into any agreement with any other public body for the supply of goods and services.
<b>The Chronically Sick &amp; Disabled Persons Act 1970</b>	
Section 4	Duty to make provision for the needs of members of the public who are disabled and who are visiting any building or premises to which the public are to be admitted.
Section 7	To provide signs indicating that provision has been made for the disabled at any building.
Section 8	Duty to make provision for the needs of disabled persons using office and other premises in which they are employed by the Council with regard to the means of access to and within the premises, parking facilities, and sanitary conveniences.
<b>Town &amp; Country Planning Act 1971</b>	
Section 125	Power to manage or use a listed building occupied by the Council.
<b>Health &amp; Safety at Work Etc Act 1974</b>	
Section 2(1)	Duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees.

<b>Local Government Act 1974</b>	
Section 36(1)	Power to recover administration costs in addition to actual costs of undertaking work.
<b>Race Relations Act 1976</b>	
Section 71	To have due regard, when carrying out any of the Council's functions, to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups, and to perform such duties as may be imposed by the Secretary of State by order under this section in relation to the better performance of such functions.
Section 71D	To comply with a compliance notice issued under this section.
<b>Local Government (Miscellaneous Provisions) Act 1976</b>	
Section 16	To serve on any person occupying, having an interest in, or managing any land a notice requiring them to furnish the Council with information regarding the nature of their interest in the land and the name and address of others occupying, managing or having an interest in the land.
<b>Representation of the People Act 1983</b>	
Section 35(6)	To place the services of any Council officers at the disposal of any person acting as the returning officer at any Greater London Authority election for an electoral area situated wholly or partly in the Borough.
<b>Local Government &amp; Housing Act 1989</b>	
Section 150	To exercise and perform any powers and duties contained in any regulations made by the Secretary of State under this section permitting the making of a charge for any Council function for which there is no other statutory power to charge.* (the power to set any charges or scales of charges shall be exercised in consultation with the relevant Executive Member).
<b>Charities Act 1993</b>	



Section 78	To make arrangements for co-ordinating the activities of the Council and those of any charity established for purposes similar or complementary to services provided by the Council in the interests of persons who may benefit from those services or from the charity and to disclose to any such charity any information obtained in connection with the services provided by the Council.
<b>Civil Evidence Act 1995</b>	
Section 9	To certify that any document forms part of the records of the Council for the purpose of admitting that document as evidence in civil proceedings
<b>Disability Discrimination Act 1995</b>	
Section 6	To take such steps as it is reasonable in all the circumstances to take in order to prevent either:  a) the arrangements made in relation to the employment of any person by the Council or  b) any physical feature of premises at which people are employed by the Council having the effect of placing a disabled person at a substantial disadvantage in comparison with persons who are not disabled, and to comply with and exercise and perform any powers and duties contained in any regulations made under this section with regard to the duty imposed by this section.

Section 21	<ul style="list-style-type: none"> <li>• To take such steps as are reasonable to change any practice, policy or procedure which makes it impossible or unreasonably difficult for disabled persons to make use of services which the Council provides;</li> <li>• To take such steps as are reasonable to remove, alter, or avoid any physical feature which makes it impossible or unreasonably difficult for such persons to make use of such services;</li> <li>• To take such steps as are reasonable to provide an auxiliary aid or service that would enable or facilitate the use of Council services by disabled persons, and to comply with and exercise and perform any powers and duties contained in any regulations made under this section.</li> </ul>
<b>Local Government Act 2000</b>	

Section 92	Power to approve compensation payments to remedy complaints in accordance with the Corporate Complaints Procedure and Financial Regulations
<b>Criminal Justice &amp; Court Services Act 2000</b>	
Section 35	To ensure that a person who is disqualified from working with children under the terms of this Act is not offered work in a regulated position (as defined in section 36 of this Act) and that any such person who is so employed is removed from such work.
<b>Criminal Justice and Police Act 2001</b>	
Sections 50, 52-55, 60-62	To authorise any officer exercising a power to enter and/or seize items found on premises to exercise the additional powers of seizure contained in this section, to give the required notice under section 52 of this Act, and to perform the duties contained in sections 53-55 of this Act (to return certain items seized) and sections 60-62 of this Act (to secure certain items seized).

<b>Local Government Act 2003</b>	
Section 93	Power to charge for discretionary services.

### 3.7 General Provisions

- (a) All Chief Officers have been appointed Proper Officers in relation to the functions of their respective Services for the purposes of section 234 of the Local Government Act 1972 (signing or authenticating any notice, order or other document which the Council are authorised or required to issue under any enactment);
- (b) Any reference to the function of a Proper Officer in relation to any legislation is to be taken as including subordinate legislation and any enactment for the time being amending or replacing such legislation;
- (c) If the office of any of the officers referred to above is vacant or the officer is absent or otherwise unable to act, his/her deputy, or, failing that deputy, the most suitable senior officer, is hereby authorised to act as the Proper Officer.

### 4 Limitations/Guiding Principles

- 4.1 There are general limitations established by Haringey as part of their Standing Orders (**Part 3 Section E Scheme of Delegation**). This scheme does not delegate to officers:
  - (a) Any matter reserved to full Council;
  - (b) Any matter which by law may not be delegated to an officer;
  - (c) Any matter expressly reserved to the Cabinet within its Terms of Reference or otherwise, by Standing Orders or Financial Regulations or withdrawn from delegation by this scheme or by the Cabinet or full Council;
  - (d) Change to fees, charges or concession policies;
  - (e) Decisions on permanent savings in the budget to achieve the Cabinet's policies;
  - (f) The making of an order for the compulsory acquisition of land;
  - (g) The acquisition of land in advance of requirements;
  - (h) The confirmation of any order or the issue or grant of any permission, consent, licence or other determination that is the subject of a statutory right of appeal to an external authority that has been duly exercised.
  - (i) The adoption, amendment or deletion of any strategic plan or policy as set out in the Terms of Reference of the full Council, the Cabinet or any Committee, Sub Committee or Panel of the Council or The Cabinet
- 4.2 Officers shall not be authorised by virtue of these provisions:
  - (a) to incur any capital or revenue expenditure in excess of the estimates allocated to a function under the relevant head of expenditure, but subject to such modifications as may be made in accordance with Financial Regulations;
  - (b) to authorise the adoption, exercise or discharge of any policy, power or duty of a kind which has not previously been undertaken by the Council;
  - (c) to take a decision in contravention of any existing Council policy.

**5 GENERAL LIMITATIONS AND GUIDING PRINCIPLES**

5.1 These Limitations and Guiding principles describe the boundaries of prudent ethical behaviour within which the General Manager and other employees of the Charity can operate. The General Manager must not cause or allow any practice, activity, decision or organizational circumstance that is either imprudent, illegal or in violation of commonly accepted business and professional codes of ethics.

**6 TREATMENT of STAFF**

6.1 The General Manager shall not cause or allow contract staff working conditions or hiring practices which are unfair, undignified, inequitable, unsafe, or in contravention of legislated employment or human rights standards or any negotiated employment agreements.

**7 FINANCIAL PLANNING:**

7.1 The General Manager shall not deviate from agreed and stated policies in allocating resources or funding. The General Manager shall not cause or allow budgeting that is not based on generally accepted financial practices and which:

- Fails to separate budgeted items from year to date expenditures.
- Fails to include financial projections based on long range planning.
- Fails to include a cash flow analysis.
- Plans the expenditure in any fiscal year of more funds than anticipated revenues, unless cash reserves are to be utilized and prior approval is obtained from the Board of Trustees

-Fails to estimate all revenue and all expenses based on reasonable and explicit assumptions.

- Endangers the fiscal soundness or viability of APPCT for future years.

7.2 With respect to actual ongoing financial health of APPCT the General Manager shall not cause or allow the development of fiscal jeopardy or a material deviation away from actual expenditures authorized by the Board and within pre-established priorities of APPCT. Accordingly, the General Manager shall not:

- Fail to advise the Board of any significant or unexpected changes in the pattern of revenue and/or expenditure in an expedient manner.
- Expend more funds than provided in the budget(s) without prior approval
- Use restricted funds for unauthorized or unintended purposes.
- Fail to ensure that payroll and debt obligations are met in a timely manner, or allow the collection of accounts receivable to be undertaken in an untimely manner.
- Allow payments to the Government or filing of statutory returns to be overdue or inaccurately filed.

**8 ASSET PROTECTION**

8.1 The General Manager shall not allow financial and non-financial assets to be unprotected, inadequately maintained, serviced or unnecessarily placed at risk. Accordingly, the General Manager shall not:

- Fail to take out adequate insurance against loss or damage to Charity property
- Expose APPCT and staff to unnecessary claims of liability.
- Receive, process or disburse funds under financial controls which do not meet generally accepted accounting practices (GAAP) including those for not-for-profit
- Make purchases without due consideration to cost, quality and guarantees as well as contracting and procurement procedures

- Fail to protect any intellectual property, information and files from loss, significant damage and inappropriate access.
- Fail to recommend to the Board clear limits for spending (and signing) authority
- Ensure that all cheques are correctly authorised
- Invest any excess funds without the approval of the Board

**9 COMMUNICATION and SUPPORT**

- 9.1 The General Manager shall not permit the Board or supporting Committees to be unsupported in their work. Accordingly, the General Manager shall not:
- Fail to inform the Board or Committees in a timely manner of relevant trends, anticipated adverse media coverage, hiring or firing of personnel, major critical incidents, publicly visible external and internal changes, major contracts, politically sensitive issues or changes in the assumptions upon which the Charity's priorities have been based.
  - Fail to submit the necessary financial monitoring data as required to the Board in a timely, accurate and understandable format.
  - Fail to advise the Board if the opinion of the General Manager is that the Charity is not in compliance with its own policies on governance process.
  - Fail to include in all reports prepared for the Board decisions, a section on what stakeholder consultation has taken place and the content of any comments
  - Fail to provide the Board with information respecting organizational priorities.
  - Fail to present information in an understandable form to the Board or Committees and shall not fail to clearly identify whether an item is for **decision making, monitoring or information**.
  - Fail to provide a timely, secure mechanism for official Charity communications.
  - Fail to provide reasonable administrative support for Charity activities.
  - Fail to report actual or anticipated non-compliance with any policy of the Charity

**10 INFORMATION ABOUT EMERGENCIES**

- 10.1 In order to protect the Charity from the sudden loss of the General Manager he shall not fail to have at any one time at least one member of staff familiar with the day to day functional operations, overall issues and processes of the Charity.
- 10.2 The General Manager shall not fail to update the information data and records of the Charity on a monthly basis.

**11 PUBLIC IMAGE**

- 11.1 The General Manager shall not endanger the Charity's public image or credibility, particularly in ways that would hinder its ability to accomplish its mission. Accordingly he shall not:
- Fail to establish an effective corporate communications plan.
  - Permit presentations to be made to the media, stakeholders or third parties which portray as Charity policy information that is contrary to positions established as its policy
  - Fail to provide regular reports to the Board on financial needs, information or actions taken to address goals and objectives or an annual report and accounts

**12 INFORMATION MANAGEMENT SYSTEMS**

- 12.1 The General Manager shall not fail to develop and maintain effective information systems that assist the Board and Committees in effectively carrying out and evaluating goals and objectives. This must provide baseline data and information. and enable systematic tracking of initiatives and desired outcomes.

**13 PARTNERSHIPS**

- 13.1 The General Manager shall not fail to seek out and develop appropriate partnerships and encourage community involvement to maximize efficiency and effectiveness in the use of all resources.

**Appendix A**

**PART FOUR – RULES OF PROCEDURE Section I (Extracts from Haringey's Standing Orders– Finance Procedure Rules)**

**1 Introduction and Status of Financial Regulations**

1. Financial regulations provide the framework for managing the Council's financial affairs and for resources that the Council or its employees manage on behalf of others. They apply to every member and officer of the Council and, for the avoidance of doubt, trustees, directors and officers of any related party, trust or company and anyone acting on its behalf.

2. The regulations identify the financial responsibilities of the full council, Cabinet and Overview and Scrutiny members, the Head of Paid Service, the monitoring officer, the Section 151 Officer **and other Directors (being for the purposes of these Regulations the Chief Executive, the Assistant Chief Executives, the General Manager of the Alexandra Palace and Park Trust, the Chief Executive Officer of any trading company of the Council and its related parties, and the Directors)**. Cabinet Members and Directors should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, such as school governors and headteachers, references to Directors in the regulations should be read as referring to them.

3. All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

5. Directors are responsible for ensuring that all staff in their departments are aware of the existence and content of the Council's financial regulations and other internal regulatory documents and that they comply with them.

It is a disciplinary offence to breach these financial regulations.

**DIRECTORS**

1.16. Directors are responsible for:

(a) ensuring that Cabinet Members are advised of the financial implications of all Proposals and that the financial implications have been agreed by the Section 151 Officer;

(b) ensuring compliance with Contract Standing Orders.

1.17. It is the responsibility of Directors to consult with the Section 151 Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

**BRIBERY, CORRUPTION AND FINANCIAL IRREGULARITIES**

1.24. All employees shall conduct themselves to the highest standards. Any employee involved in bribery, corruption, fraud or deception places themselves in a position which the Council will find unacceptable.

**Bribery and corruption**

1.25. It is a criminal offence for any person to use their position with the Council to accept or ask for any gift, reward or other advantage from work done in an official capacity. In addition such acts seriously undermine the public image of the Authority and its staff. As a result the Council will discipline staff on the grounds of gross misconduct if they breach this regulation.

### **Financial irregularities**

1.26. Staff must act with absolute honesty when dealing with the assets of the Council, and any other assets for which the Council is responsible. The Council will rigorously enforce sanctions laid down in the Disciplinary Code of Practice if staff are found to have acted dishonestly. The Code gives examples of financial irregularities that are considered to be gross misconduct.

1.27. All staff must ensure that any irregularity or suspected irregularity involving Council funds, property or any other assets for which the Council is responsible is reported immediately to the Head of Audit. This also applies to the misuse of computer passwords and the disclosure to unauthorised individuals of information obtained by their use.

### **Budget preparation**

2.07. It is the responsibility of Directors to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet, through the Section 151 Officer.

### **Budget monitoring and control**

2.09. It is the responsibility of Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by their staff and the Section 151 Officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer to any problems.

## **3. RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **INTRODUCTION**

3.01. It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

3.04. Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

3.06. It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency, propriety, regularity and effectiveness and for achieving their financial performance targets.

### **ASSETS**

3.11. Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place. Any disposal of any asset no longer required by the Council shall be for the best available consideration.

### **Staffing**

3.20. Directors are responsible for controlling total staff numbers by:

- (a) advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels;
- (b) adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs;



(c) the proper use of appointment procedures.

**General**

4.02..... Directors are responsible for the proper operation of financial processes in their own departments in line with overall procedures set by the Council and the Section 151 Officer.

4.03. Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Section 151 Officer.

4.04. Directors should ensure that their staff receive relevant financial training that has been approved by the Section 151 Officer.

4.05. Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Directors must ensure that staff are aware of their responsibilities under freedom of information legislation.

**INCOME AND EXPENDITURE**

4.06. It is the responsibility of Directors to ensure that a proper scheme of delegation in respect of financial matters has been established within their area and is operating effectively.

**PART FOUR – (Extract from Haringey’s Rules of Procedure Section J– Contracts)**

**Part Four, STATEMENT OF PRINCIPLES**

1. The Contract Standing Orders provide the framework rules for the Council’s procurement of works, goods and services. Following them will ensure value for money, propriety and the proper spending of public money.

2 The Procurement Code of Practice provides more detail and shall govern Council tendering and contract procedures. The Director of Corporate Resources and Head of Procurement shall maintain and issue the Procurement Code of Practice. Any procurement activity shall proceed in accordance with the Contract Standing Orders the Procurement Code of Practice and all such other guidance issued by the Head of Procurement.

3. The Head of Procurement shall make the latest version of the Contract Standing Orders and the Procurement Code of Practice available to every Director and Member of the Council. Directors or officers acting on their behalf shall apply the requirements of the Standing Orders and the Procurement Code of Practice when engaging in any procurement activity.

4. The purpose of procurement activity shall be to achieve best value in accordance with the Council’s statutory or approved objectives. This should include an innovative approach to building partnerships with the private and not-for-profit sectors within a robust contractual framework. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of best value by having regard to a combination of economy, efficiency and effectiveness.

5. Every contract or official order for works, goods or services made by the Council shall be for the purpose of achieving the Council’s statutory or approved objectives and shall conform to all relevant English and European Union legislation.

6. Nothing in the Contract Standing Orders or the Procurement Code of Practice shall be construed as removing or diminishing the responsibility of all involved to meet individual and collective accountabilities.

7. Directors shall ensure that the Cabinet or a member of the Cabinet is consulted on any procurement activity of a controversial nature.
8. Directors must ensure that audit trails are in place for all procurement activity in accordance with the Procurement Code of Practice.
9. No Member shall enter into any contract on the Council's behalf.
10. No Member shall be permitted to become security under any agreement between the Council and a contractor employed by it.
11. Where Haringey Council is the procuring authority, and it is practical to do so, contracts shall be advertised and awarded as a minimum "on behalf of public sector bodies in Greater London".

## **CONTRACT STANDING ORDERS**

### **1. INTRODUCTION**

- 1.01. Procurement decisions are among the most important decisions a manager will make because the money involved is public money and the Council is concerned to ensure that best value goods, works and services are provided. Efficient use of resources in order to achieve best value is therefore an imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.02. For these reasons it is a disciplinary offence to fail to comply with Contract Standing Orders and the Procurement Code of Practice when letting contracts and employees have a duty to report breaches of Contract Standing Orders to an appropriate senior manager and the Head of Audit & Risk.
- 1.03. Reference should be made to the Procurement Code of Practice for more detailed procurement procedures.

### **2. DEFINITIONS AND INTERPRETATION**

- 2.01. These Contract Standing Orders are made pursuant to section 135 of the Local Government Act 1972 and shall come into force with this Constitution.
- 2.02. Unless the context otherwise requires, in these Contract Standing Orders the terms below shall have the meanings ascribed to them.
  - a) "**Director**" means an employee of the Council holding a post designated as Director, Chief Executive or Assistant Chief Executive.
  - b) "**EU**" means European Union.
  - c) "**Cabinet**" means the "Executive" Cabinet of Haringey Council or any other formally constituted Member body operating within the terms of its reference (e.g. the Cabinet Procurement Committee).
  - d) "**General Manager**" means the person holding the position of General Manager of Alexandra Palace and Park Charitable Trust.
- 2.03. In the event of any conflict between EU law, English law and Council policy, the requirements of EU law shall prevail over English law and the requirements of English law shall prevail over Council policy.
- 2.04. In the event of any doubt as to the interpretation of these Contract Standing Orders, or as to the proper procedure to be followed, reference should be made to the Head of Procurement.

### **3. THE ROLE AND RESPONSIBILITIES OF DIRECTORS**

3.01. The Director has responsibility for all contracts tendered and let by his/her Directorate. He/she is accountable to the Cabinet for the performance of his/her duties in relation to contract letting and management, which are to:

- a) ensure compliance with English and EU legislation and Council Policy;
- b) ensure value for money in all procurement matters;
- c) ensure compliance with Contract Standing Orders and the Procurement Code of Practice
- d) maintain a departmental scheme of delegation;
- e) ensure that all relevant staff are familiar with the provisions of Contract Standing Orders and the Procurement Code of Practice and that they receive adequate training on their operation;
- f) ensure compliance with any guidelines issued in respect of these Contract Standing Orders;
- g) take immediate action in the event of a breach of Contract Standing Orders or the Procurement Code of Practice within his or her area;
- h) keep proper records of all contracts, tenders etc. including minutes of tender evaluation panels and other meetings;
- i) keep records of waivers of any provision of these Contract Standing Orders;
- j) make appropriate arrangements for the opening of tenders and their secure retention so as to protect the integrity of the tendering process;
- k) ensure that the Council's seal is affixed to any document required to be executed as a deed and that where a document is not expressed to be under seal, it is signed by two people as provided for in these Contract Standing Orders;
- l) ensure original contract documents are forwarded to the Head of Legal Services for safekeeping;
- m) record all contracts in the Contract Register;
- n) ensure effective management of all contracts in his/her area and to a level deemed appropriate in regard to risk or value of each contract.

#### **4. THE ROLE AND RESPONSIBILITY OF THE CABINET AND THE GENERAL PURPOSES COMMITTEE**

4.01. The Cabinet will hold Directors accountable for any decisions he/she makes under his/her delegated authority or under these Contract Standing Orders.

4.02. The General Purposes Committee will keep under review these Contract Standing Orders and recommend amendments to full Council for adoption.

4.03. The Cabinet will award contracts valued over £250,000 (two hundred and fifty thousand) provided that the award of any contract valued over £3,000,000 (three million) is a 'key decision' and as such must be in the Council's forward plan and comply with the other procedures in that regard set out in the Constitution.

#### **5. CALCULATION OF CONTRACT VALUES**

5.01. Directors must ensure that a pre-tender estimate of anticipated costs is prepared and recorded in writing. Where EU Public Procurement rules apply, Directors must also ascertain the value of a contract in accordance with those rules.

5.02. Unless otherwise specifically provided, reference to contract value or an estimated contract value in these Contract Standing Orders means the aggregate value payable in pounds sterling exclusive of Value Added Tax over the entire contract period.

5.03. Contracts must not be artificially under or over estimated or divided into two or more separate contracts where the effect is to avoid the application of Contract Standing Orders or EU legislation.

## **6. SCOPE OF CONTRACT STANDING ORDERS**

6.01. These Contract Standing Orders shall apply to all contracts "for the procurement by the Council of works, goods and services" unless otherwise expressly stated or these requirements are waived in accordance with paragraph 7.

6.02. Where the Council secures funding from an external funding body, and the funding is conditional upon the grant monies being used to facilitate service delivery, Contract Standing Orders shall apply to procurement by the Council of the works, goods, and services to facilitate the service delivery.

**6.03. Where a contract has an estimated value of less than £5000 (five thousand), the relevant Director should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.**

**6.04. Where a contract has an estimated value of more than £5000 (five thousand), but less than £25,000 (twenty-five thousand) quotations should be obtained or the tender procedure followed. However the Director may decide that such processes are not appropriate in order to secure value for money for the Council. If that is the case, the Director may determine another process of selecting a contractor which will meet best value criteria. The decision and process must be properly documented.**

**6.05. Except as otherwise provided, contracts with an estimated value of more than £25,000 (twenty-five thousand) must be let following a competitive tendering process in accordance with the procedures set out in these Contract Standing Orders and any guidelines or Codes of Practice issued from time to time under these Contract Standing Orders.**

6.06. No contract shall be let unless the expenditure involved has been fully considered and approved and sufficient money has been allocated in the relevant budget.

6.07. It shall be a condition of any contract between the Council and any person (not being an Officer of the Council) who is required to manage a contract on the Council's behalf that, in relation to such contract, he/she shall comply in all respects with the requirements of these Contract Standing Orders as if he/she were an employee of the Council.

6.08. These Contract Standing Orders shall not apply to contracts of employment, or to contracts relating to any interest in land. For the avoidance of doubt, there are excluded from these Contract Standing Orders any agreement relating to the provision of nomination rights to housing, collateral management arrangements in respect of social housing and the acquisition of rights or benefits pursuant to the Council's Private Sector Temporary Accommodation Leasing Scheme.

### **Framework and Consortia Arrangements**

6.09. Subject to the provision of CSO 6.10, these Contract Standing Orders shall not apply where the Council procures particular goods, services or works:

a) as part of a group of public sector bodies contracting with one or more contractors (consortium arrangement), provided the contract standing orders of one of the public sector bodies constituting the group and/ or any applicable EU Regulations have been followed, or

b) by selecting one or more contractors from a Framework or similar arrangement (including approved lists), established by a public sector body in accordance with the

contract standing orders of that public sector body and/ or any applicable EU regulations.

6.10 The Council's decision to enter into a contract with the recommended contractor must be made in accordance with Contract Standing Orders 11.02 to 11.04.

6.11. The Council shall observe these Contract Standing Orders where it procures goods, services and works for the benefit, or on behalf of, other public bodies.

**Alexandra Palace and Park**

**6.14 These Contract Standing Orders apply to the procurement of works, goods and services by or on behalf of Alexandra Palace and Park Charitable Trust on the following basis:**

- a) The General Manager shall have the powers and duties of a Director specified in these Contract Standing Orders;**
- b) The Alexandra Palace and Park Board and Panel shall have the powers and duties of the Cabinet and a Cabinet Member specified in these Contract Standing Orders;**
- c) In the event of any conflict, the requirements of the Charities Act 1993, any regulations made under that Act or charity law in general shall prevail over the provisions of Contract Standing Orders.**

**7. WAIVER OF CONTRACT STANDING ORDERS**

7.01. Where these Contract Standing Orders apply to a contract (see CSO 6 above) any individual provision in Contract Standing Orders other than paragraph 8.01 (which relates to EU procedures) may be waived by the appropriate person specified in paragraph 7.02 on the basis set out in paragraph 7.03.

7.02. Subject to paragraph 7.05, a waiver of a provision of these Contract Standing Orders may be agreed by:

- a) the Cabinet; or
- b) a Director where the contract value is £50,000 (fifty thousand) or less (save that the Director shall not have authority to waive any of the provisions of Contract Standing Order 12 which relate to conditions applying to contracts unless expressly stated in CSO 12); or
- c) an Cabinet Member where the contract value is between £50,000 (fifty thousand) and £250,000 (two hundred and fifty thousand).

7.03. A waiver may be agreed by the appropriate person if they are satisfied after considering a written report by the appropriate officer that the waiver is justified because:

- a) the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Standing Orders is justifiable; or
- b) the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- c) the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English law); or
- d) it is in the Council's overall interest; or
- e) there are other circumstances which are genuinely exceptional.

7.04. A record of the decision approving a waiver and the reasons for it must be kept and an entry made in a central register maintained and monitored by the Head of Procurement.

7.05. Where a waiver of Contract Standing Orders is sought for the second time in relation to the same contract, then regardless of the value of the contract, that waiver

may only be agreed by the Cabinet.

#### **8. TENDER PROCEDURES**

8.01 Where the value of a works, goods or services contract is equal to, or exceeds, the applicable threshold set out in the Public Contracts Regulations 2006, the provisions of those Regulations shall govern the tendering process and shall take precedence over the provisions of these Contract Standing Orders in the event of any conflict.

8.02. In respect of contracts to which CSO 8.01 apply, all bidders must be notified in writing of a tender selection decision by the Council at least 10 (ten) calendar days prior to the proposed contract award date. Where the last day of this ten-day notice period falls on a non-working day, the period must be extended to the next working day.

8.03 Where tenders are to be invited the procedure to be followed shall be determined prior to advertising and shall be one of the following:

- a) open tender (all interested contractors submit a tender in response to an advertisement);
- b) restricted procedure (expressions of interest from interested contractors in response to an advertisement, with a selection of those contractors being invited to submit a tender);
- c) negotiated procedure (expressions of interest from interested contractors in response to an advertisement, with a selection of those contractors being invited to negotiate);
- d) competitive dialogue (expressions of interest from interested contractors in response to an advertisement, followed by dialogue with a selection of those contractors to identify a solution (or solutions) which meets the Council's requirements, and an invitation to the selected contractors to submit tenders based on the solution/s resulting from the dialogue);
- e) where a Framework arrangement (including approved lists) exists in respect of the subject matter, tenders shall be invited using the Framework arrangement from all capable contractors having regard to the principles of best value.

#### **9. RECEIPT AND OPENING OF TENDERS**

9.01. Contractors must be informed that their tenders will only be considered if they are:

- a) sent in a plain envelope or parcel with a label on which is printed the word "Tender" followed by the subject of the contract; and
- b) contained in a sealed envelope or parcel which does not show the identity of the tenderer in any way; and
- c) delivered to the place and by the time stated in the tender invitation.

9.02. Tenders which do not meet the requirements of Contract Standing Order 9.01 may only be considered if the other tenders have not yet been opened and:

- a) failure to comply is the Council's fault; or
- b) a tender is late, and it is clear without any contact with the contractor that the tender was sent in such a way that in the normal course of events it would have arrived on time.

9.03. In accordance with the responsibilities set out at CSO 3.01 (j), tenders must be kept safe until the time for their opening by the officers given this duty by the Director responsible for the tendering process. Records of non-compliant bids and of the time and date of receipt of all unopened tenders must be kept by those officers.

9.04. Tenders for a particular contract must be opened at the same time in the presence of two officers who have had no involvement in the tendering process. These officers shall be responsible for properly recording the price, duration of any works and all other relevant details of each opened tender.

9.05. The Head of Procurement must approve the training and seniority of all officers employed to open tenders and also the arrangements in each Directorate for ensuring the independence of such officers from the teams involved in the tendering process.

#### **E-Tendering**

9.06 Invitations to tender may be dispatched, and tenders received, by electronic means with the prior approval of, and in accordance with a procedure specified by the Head of Procurement.

9.07 Tenders received electronically must be stored securely, and must not be accessible until after the closing date in respect of submission of the tenders.

9.08 At an appointed time for opening the electronically submitted tenders, two authorised officers who have had no involvement in the tendering process shall access the submitted tender data simultaneously, open the tenders and record the price, duration of any works and all other relevant details of each opened tender.

#### **E-Auctions**

9.09 In appropriate cases, the submission of prices for a tender may be conducted by e-auction using an on-line facility, with the prior approval of, and in accordance with a procedure specified by the Head of Procurement.

### **10. POST TENDER NEGOTIATIONS**

10.01. Except where the negotiated procedure referred to in paragraph 8.03(c) applies, negotiation after receipt of formal bids or tenders and before the award of contract is only permitted:

- (a) with those tenderers submitting the most economically advantageous tender, and
- (b) with a view to obtaining an improvement in content in circumstances which do not put other tenderers at a disadvantage, distort competition or adversely affect trust in the competitive tendering process, and
- (c) if the prior authority of the Director has been obtained.

10.02. There may be circumstances where an officer authorised by the Director may contact a contractor in order to clarify an ambiguous tender. This does not constitute post tender negotiations.

10.03. All communication with contractors under this Contract Standing Order must be in writing or recorded in writing.

### **11. TENDER ACCEPTANCE AND CONTRACT AWARD**

11.01 Tenders are to be accepted on the basis of either:

- a) The lowest price; or
- b) The most economically advantageous tender (i.e. the tender providing the most benefit to the Council) as determined by such criteria, to include whole life costing methodologies, as are relevant to the type of works, goods or services.

11.02. A Director may award, assign or novate contracts valued at £250,000 (two hundred and fifty thousand) or less.

11.03. Subject to the provisions of paragraph 11.04 and 11.05, all contracts valued over £250,000 (two hundred and fifty thousand) may only be awarded, assigned or novated by the Cabinet.

11.04. The award of any contract valued at over £500,000 (five hundred thousand pounds) is a 'key decision' and as such must be in the Council's forward plan and comply with the other procedures in that regard set out in the Constitution. In accordance with Part 5 Section C of the Constitution, the award of spot contracts and contracts for the supply of energy to the Council are not "key decisions".

11.05. Contracts for the supply of energy to the Council valued over £250,000 may be awarded by a Director or in accordance with CSO 6.09.

## **12. CONDITIONS APPLYING TO CONTRACTS**

Form and execution of contracts

12.01. Except as provided in CSO12.02, all contracts above £50 (fifty) in value must be in writing by way of a document prepared, or on a basis approved, by the Head of Legal Services.

12.02. Where the works, goods or services to be provided under a contract are required to commence prior to the issuance and execution of a formal contract, a Director, if satisfied that it is in the Council's best interest in the particular circumstances, may approve issuance of a Letter of Intent pending the issuance and execution of a formal contract. However, the maximum cover afforded by any Letter of Intent shall not exceed 10% of the contract price in respect of works or services contracts, or £50,000 in respect of supplies contracts.

12.03 A contract made in extreme urgency need not be in writing so long as it is confirmed in writing within four weeks

12.04. Every contract shall specify:

- a) the works, goods or services to be provided or executed;
- b) the price to be paid or the precise method of its ascertainment and a statement of any discounts or other deductions; and
- c) as appropriate, the start and finish dates, or delivery dates, and any maintenance or defects liability period.
- d) compliance with the Council's insurance requirements. The requirement to comply with the Council's standard insurance requirements may only be waived with the Director of Corporate Resource's approval.
- e) compliance with the Council's equality policy.

12.05. A contract up to and including £150,000 (one hundred and fifty thousand) in value does not require sealing and should be signed on behalf of the Council, by both the relevant Director and the Head of the relevant business unit.

12.06. A contract over £150,000 (one hundred and fifty thousand) in value must be executed on behalf of the Council under seal as a deed.

Conditions applying to all contracts with value of £25,000 (twenty-five thousand) or more

12.07 Every contract with a value of £25,000 (twenty five thousand) or more must unless the Head of Legal Services and Director of Corporate Resources agree to the contrary contain clauses to cover the following:

- a) compliance with all applicable legislation;
- b) a prohibition on assignment and/or subletting without the written consent of the Director;
- c) a provision allowing the Council to cancel the contract and recover any resulting loss from the contractor if the contractor does anything which is contrary to the Prevention of Corruption Acts 1889 to 1916 or incites breach of Section 117 (2) of the Local Government Act 1972;
- d) a provision to ensure the Council is protected against the contractor's defective performance by default provisions which are appropriate to the contract;
- e) if the contractor is in breach of contract the Council can do any or all of the following:
  - i. determine all or part of the contract or determine the contractor's appointment;
  - ii. itself perform the contract in whole or in part;



- iii. recover from the contractor any additional cost resulting from the completion or cancellation of the contract.
- f) if the contractor has obtained or received by whatever means any information which gives or is intended or likely to give the contractor any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for, and award of, any works/services contract, that the Council shall be entitled to terminate that contract;
- g) that the contractor shall be required to make available to the Council or its auditors such documents or access to information or access to the staff/officers of the contractor as is necessary to conduct any audit investigation into the contract;
- h) that the contractor shall be required to make available to the Council upon request such information the Council considers necessary whether in relation to staff or otherwise, to enable the Council to meet its duties in relation to re-tendering the contract.

### **13. VARIATIONS AND EXTENSIONS**

13.01. Subject to the provisions of CSO 5, any statutory restrictions and compliance with Financial Regulations, a Director may authorise the following extensions and variations to an existing contract:

a) Either:

(i) an extension for a particular period provided for within the terms of the contract (but subject to satisfactory outcomes of contract monitoring, such information having been provided to the relevant Cabinet Member); or

(ii) a single extension of the contract by up to six months, or half the contract term (whichever is less); and

b) any other variation, and if relevant a consequent change in price, determined in accordance with the contract terms.

13.02. In any other circumstances the Cabinet may vary or extend a contract providing that to do so is consistent with the provisions of Financial Regulations.

13.03 In addition a Director may authorise variations to a contract where either delay would incur substantial cost penalties to the Council or the proposed variations are unavoidable and/or essential for the contract to proceed or continue, and the additional cost of such variations does not exceed 25% of the value of the contract, up to a maximum of £150,000(one hundred and fifty thousand). Variations above this level may be authorised by a Director, where the Director considers that circumstances require such authorisation, as long as such variations are reported to the Cabinet at the earliest opportunity.

13.04. All variations and extensions must be recorded in writing.

### **14. NOVATIONS (TRANSFERS)**

14.01 In appropriate circumstances the Council may agree to the novation or assignment of a contract. This decision must be taken based on the value of the contract at the date of award and subject to CSO 11.02 – 11.04.

### **15. DISPOSAL OF ASSETS**

15.01 Where Council assets (other than land) are to be disposed of because they are surplus to requirements, damaged or obsolete, reasonable endeavours must be undertaken to realise the residual value of the assets

15.02 Assets having little or no realisable value may be disposed of as waste with the approval of the relevant Head of Business Unit, provided the disposal shall be in favour of recycling wherever possible.

15.03 In respect of assets to be disposed of having an estimated value of less than £5,000 (five thousand), the Director concerned should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.

15.04 Assets recommended for disposal with an estimated value of more than £5,000 (five thousand), shall be disposed of in such a manner as to secure best value.

15.05 Disposal of assets valued at more than £150,000 (one hundred and fifty thousand) must be approved by the Cabinet.

15.06 Under no circumstances shall disposal of Council assets be made to employees of the Council without the prior approval of the Director

#### **16. URGENT DECISIONS**

16.01 These provisions apply where action needs to be taken urgently on any matter between meetings of the Cabinet and that action would be outside the powers given to a Director or an individual Cabinet Member. They may only be used in cases of genuine urgency and not to avoid proper forward planning.

16.02 All urgent decisions, including waivers and awards of contract, that are not “key decisions”, may be taken by the Chair of the Procurement Committee or in his/her absence by the Leader of the Council.

16.03 All urgent decisions, including waivers and awards of contract, that are “key decisions”, may be taken by the Leader of the Council in accordance with his/her powers under the Constitution and subject to the statutory “Special Urgency” rules where these apply. In the absence of the Leader, the decision may be taken by the Chair of the Procurement Committee subject to the same procedures being followed.

**SCHEDULE 5**

**PROPOSED AUDIT AND RISK COMMITTEE****Draft Terms of Reference****1 Introduction**

- 1.1 The Committee is a sub-committee of the Board
- 1.2 The Terms of Reference will be reviewed annually by the Committee, but no revision of them shall be valid unless and until approved by the Board.

**2 Purpose & Responsibilities**

- 2.1 The Committee's purpose is to help the Board properly to discharge its responsibilities of ensuring that the APPCT is being well managed and operating within approved policies, its budget, and the law.
- 2.2 The responsibilities of the Committee are to review, report and make appropriate recommendations to the Board on;
  - Governance of the APPCT
  - Financial management
  - Asset management
  - Risk management
  - Effectiveness of internal controls and management information systems
  - Economy, efficiency and effectiveness of operational processes
  - Any new legislation that affects the way the Charity operates or the Board performs its responsibilities.
  - In particular the responsibilities of the Committee are to review and approve, where appropriate:
    - I: Internal Controls*
      - Management processes for ensuring the effectiveness of financial and operational controls.
    - II: Internal Audit*
      - The nature and scope of the internal audit service, in consultation with management
      - The annual plan
      - The three year strategy
      - The progress of the internal auditors in implementing the agreed internal audit programme
      - Internal audit reports, with emphasis on the recommendations and the actions by management to implement them
      - The overall performance of the internal auditors.
    - III: External Audit*
      - The appointment and re-appointment of the external auditors
      - In consultation with the external auditors, the nature , scope and plan of their work
      - Agreement of the audit fees
      - The external auditors' management letter and the actions by management to implement recommendations
      - The overall performance of the external auditors.
    - iv: External Financial Reporting*
      - All such reports ,including annual financial statements, prior to their approval by the Board, so as to ensure that they are balanced and fair

- Changes in accounting policy
- Major judgemental areas
- Significant audit adjustments
- Compliance with accounting standards.

V: **Risk Management**

- The monitoring and updating of the Risk Register
- The Risk Management Strategy

**3 Authority**

3.1 Where and to the extent that the Committee considers it appropriate and reasonably necessary for the performance of its responsibilities, the Board authorises the Committee to:

- I: obtain independent professional advice and to secure the attendance at its meetings of non-members with relevant expertise
- II: commission and/or carry out such special investigations as it deems necessary, informing the Board accordingly.
- III: meet with the internal and external auditors without any management present.

**4 Membership**

- 4.1 The Committee shall consist of three trustees, and not less than two other individuals, as shall be appointed by the Board from time to time.
- 4.2 The Chair shall be appointed by the Committee. Best practice in the charitable sector is that the Chair is a non trustee but it will be for the Committee to decide taking into account the benefits in comparison with those of a trustee.
- 4.3 At least one member of the Committee shall have a professional qualification in finance, accounting, or auditing.
- 4.4 The Committee may recommend individuals to the Board for consideration for appointment.

**5 Meetings**

- 5.1 The Committee shall meet at least four times a year.
- 5.2 A quorum shall be three members, and shall include at least two members of the Board and one non- trustee. Voting shall be by a show of hands and on a majority basis. In the event of a tie, the Chair shall have a casting vote. In the absence of the appointed Chair the members of the Committee shall elect an alternate Chair for the duration of the meeting.
- 5.3 The Committee is entitled to invite the Chair of Trustees, any trustee, the General Manager, staff and any other person to attend any meeting to participate in discussions relevant to their areas of responsibility, specialist knowledge and experience.

**6 Reporting**

- 6.1 The minutes of each meeting, following approval by the Committee, shall be circulated to the Board.
- 6.2 The Chair shall report at least once a year to the Board on the overall effectiveness of the Committee.

**SCHEDULE 6**

## MANAGEMENT OF RISK

### 1 Background

- 1.1 The Statement of Recommended Practice - Accounting and Reporting by Charities (Issued October 2005) introduced a new requirement for trustees of charities whose gross income is over £250k to include within their Annual Report a statement confirming that; “.. the major risks to which the Charity is exposed, as identified by the trustees, have been reviewed and systems have been established to mitigate those risks.”
- 1.2 The Charity’s Annual Report for 2006/07 makes reference to Risk Management in line with the Charities’ Statement of Recommended Practice. Paragraph 3.19 of last year’s Annual report states;  
“Discussions have been ongoing about preparation of the formal Risk Management Manual. However plans to submit this document for trustee approval in the previous year have been hampered by the devotion of key resources to the intensified negotiations with the preferred investment partner. In the light of the significant changes taking place the whole question of the Risk Management Manual needs to be revisited.”
- 1.3 Risk is used to describe the uncertainty surrounding events and their outcomes that may have a significant effect, either enhancing or inhibiting, on operational performance, achievement of aims and objectives or meeting expectations of stakeholders. Major risks are those which have a high likelihood of occurring and would, if they happened, have a severe impact on operational performance, achievement of aims and objectives or could damage the reputation of the charity so changing the way trustees, supporters or beneficiaries might deal with it. The process should enable trustees to focus on mitigation of risks that would prevent the charity from achieving its strategic objectives.

### 2 Risk Register

- 2.1 A Risk Register has been compiled of all the current known major risks that potentially affect the APPCT and APTL. The classification used in setting up the Risk Register follows largely that highlighted by the Charity Commission and these are;
- **Governance** risks that include inappropriate organisational structures or difficulty recruiting trustees with the relevant skills
  - **Operational** risks that include service quality and development, health and safety or fraud and misappropriation
  - **Financial** risks that include accuracy and timeliness of financial information and adequacy of reserves and cash flow
  - **External risks** that include public perception and government policy
  - **Compliance with law and regulation** that include potential breach of charity or employment law.
- 2.2 The framework also reflects the approach used in assessing and quantifying risks associated with capital projects in the Public Sector. This summary therefore sets out all major risks including an evaluation of their probability and impact before and after actions that can be taken to mitigate their effect. These are both assessed on a scale of 1 to 5, multiplied together to produce an overall score where the higher the value the more

serious the risk and this helps in appraising the effectiveness of the action that can and has been taken.

**Probability** –1 (Unlikely), 2( Low), 3(medium),4(high),5(almost certain)

**Impact** - 1(insignificant), 2 (minor), 3 (moderate), 4 (major), 5 (catastrophic)

2.3 Risks have been evaluated for probability and impact, using the numeric system set out above and used in other Organisations. This is explained further on the chart below where there are two axes covering probability and impact of risks. The interpretation of results from this numeric system may also be helped by applying a traffic light system to the overall risk ratings in considering future reports on progress. This system is illustrated in the following table where it would be the risks with the pre-mitigation control scores of 15 upwards that Trustees would be asked to concentrate on and to receive assurances about.

5	5	10	15	20	25
C					
4	4	8	12	16	20
H					
3	3	6	9	12	15
M					
2	2	4	6	8	10
L					
1	1	2	3	4	5
L					
Impact ↑	1(insignificant)	2(minor)	3(moderate)	4(major)	5(catastrophic)
Probability→	1(unlikely)	2(low)	3(medium)	4(high)	5(almost certain)

2.4 There are four approaches that can be taken for dealing with risk;

- Transfer the financial consequences to third parties or share it such as through insurance
- Avoid the activity giving rise the risk
- Manage or mitigate the risk
- Accept the risk as it cannot be avoided.

Trustees should reflect on these when reviewing the Risk Register. An extract from Milestones: Managing key events in the Life of a Charity (RS06) says;” The main message of



this report is that planning should be central to a charity's governance and, to inform the planning process, trustees should make use of the experience and lessons learned by other charities. Sound planning and a proper assessment of risks by charities, of their governance, finance, and activities, will promote efficiency, sustainability and growth in the sector."

## **3 Role of Trustees**

3.1 This will cover the following areas;

- Ensuring that the identification, assessment and mitigation of risk is linked to the achievement of the charity's objectives.
- Ensuring that the process covers all areas of risk and is focused on major risks.
- Ensuring that the process produces a risk exposure profile that reflects trustees' views on what is acceptable.
- Reviewing and considering the principal results of risk identification, evaluation and management.
- Ensuring that risk management is ongoing and embedded in the Charity's culture as well as management and operational procedures.
- Considering any significant new activities, opportunities and changes as they arise to ensure that risks are identified and managed.

3.2 The Trustees have overall responsibility for ensuring that the Society has an appropriate system of controls, both financial and otherwise. The Society's systems of internal control are designed to provide reasonable assurance against material financial misstatement or loss to the Society. Trustees, and management, must identify the types of risk the Society faces, consider the likelihood of their occurrence and their potential impact, draw up an approved Risk Register, and put in place procedures to regularly monitor and update the management of these risks.

3.3 The Charity Commission recommend that risk can be reduced by trustees being particularly careful when entering into substantial contracts or borrowings to ensure that the charity has the means to meet its obligations. If trustees are clear about all the potential risks and identifying the areas, if any, where their charity might be exposed, trustees can take preventative action to lessen the possibility of personal liability. The Charity Commission recommends that trustees:

- familiarise themselves with the governing document;
- establish effective induction procedures for new trustees;
- take professional advice when needed or required by statute;
- take advice from the Commission or a professional expert when unsure about their duties;
- clarify what powers they have to delegate authority either to an agent or employees;
- implement effective internal management and financial controls;
- find out what areas of law might affect the charity's activities, such as employment, health and safety, human rights and data protection;
- before they enter into a contract, satisfy themselves that the charity has the resources to meet its part of the contract and understand the consequences of breaching the contract

## **4 Role of the General Manager and Advisors**

4.1 The General Manager will be responsible for compiling and updating the Risk Register and for advising the Board about changes to be made either for risks to be added or excluded, as well as the scale of these, together with progress on actions being taken. He will consult with key staff as well as with professional advisors, such as legal services, to the Charity.

## **5 Approach and next steps**

- 5.1 Trustees and management must identify the types of risk the Charity faces, consider the likelihood of their occurrence and potential impact, add these to the Risk Register, and put in place procedures to regularly monitor and update the management of them. There should be
- A remit to senior management and to all Committee to consider the risk element in all aspects of the Charity's activities.
  - Review and approval of the overall Risk Register as a minimum once a year
  - Regular reports to the Board setting out progress with managing major risks.
  - Engagement with internal and external auditors to ensure that they use a risk-based approach in their work.
- 5.2 The Trustees and the General Manager must consider risks in the development of strategic plans, map these against strategic aims and set up performance measures to monitor progress. Procedures for monitoring risk and reporting failings immediately to the Board and appropriate levels of management, together with details of corrective action being undertaken, will be developed.
- 5.3 The Risk Register has identified that major priorities for the Charity are the development of an overall Risk Management Strategy as well as other plans that include those covering Business Continuity and Disaster Recovery. These will need to link with the approach taken at Haringey Council in dealing with these issues.

## ALEXANDRA PALACE AND PARK CHARITABLE TRUST

## DRAFT RISK REGISTER

Area of Risk	Potential Outcomes	Probability	Impact	Unmitigated Risk Score	Controls for mitigating risk	Probability	Impact	Mitigated score	Monitoring Process	Responsibility
<b>Governance and Management</b>										
Strategy not agreed	Lack of direction and planning about the future	4	5	20	Process & Timescale set for updating and agreeing revised strategy	2	5	10	Board papers	Trustees
Governance arrangements with LBH, within the Trust and with the Trading Company	Lack of robust systems, processes and culture impacts on effectiveness and efficiency	4	5	20	Initial review being undertaken as follow on to report by Internal Audit, will then be reviewed at least every three years	2	5	10	Internal management review and part of audit programme	General Manager
Lack of up to date Risk Register	Failure to identify and take appropriate action to manage key risks	4	5	20	Risk Register being prepared for presentation to Trustees in February 09	2	5	10	Annual review by Board	Trustees
Lack of Risk Management Strategy and support	Failure to adopt robust approach to risk management and to take appropriate action to manage key risks	4	5	20	Risk management strategy will be developed	4	5	20	Regular review by Board	Trustees
Local Authority involvement could compromise the independence of the Charity	Involvement and influence compromises the governance requirements if distinct role of Charity not recognised and supported	4	5	20	Governance structures will clarify and confirm requirements of the Charity	2	5	10	Regular review by Board	Trustees
Trustees do not adopt and implement all of the principles of the governance framework	Weakens the governance framework and the effective operation of the Charity	4	5	20	Governance framework sets out the requirements for robust and effective approach	2	5	10	Regular review by Board	Trustees
Potential change of Trustees each year	Weakens the governance framework and the effective operation of the Charity	4	5	20	Governance framework sets out the requirements for robust and effective approach. Particular emphasis on selection of trustees with requisite skills and effective induction and training	3	5	15	Regular review by Board	Trustees
Lack of clarity about the General Manager's delegated powers	Weakens the governance framework and the effective operation of the Charity	5	5	25	Governance framework includes clarity of scope of General Manager's responsibility and delegated authority	2	5	10	Regular review by the Board and General Manager to ensure that the limits are appropriate and effective	Trustees and General Manager
Lack of clarity about adequacy of audit arrangements	Level and quality of audit coverage will not provide appropriate assurance for review of governance requirements	4	5	20	Current agreement arranged through Haringey	2	5	10	Regular review by the Board, General Manager and proposed audit and Risk Committee	Trustees and General Manager
<b>Operational Risks</b>										
General vulnerability of covenant from APTL	Local authority may revisit the funding provision due to poor performance of the consolidated organisation	4	5	20	GM to attend all APTL board meetings so as to be aware in advance of any funding issues.	2	5	10	General Manager and Trustees	General Manager
Deteriorating physical condition of building including deliberate damage	Difficult to afford upkeep, impact on trading and income as well as increasing health and safety issues	4	5	20	Planned programme for repair and maintenance	2	5	10	Meeting with Park Maintenance manager	General Manager
Difficulties with existing tenants	Significant use locally ie 345 childrens club, cricket club, 2 catering outlets, boating operation and golf course	3	2	6	Will be highlighted at the Board if there are major issues	2	2	4	Regular meetings with park manager	General Manager
Poor use of IT	The Trust does not operate effectively and efficiently with impact on staffing performance	3	3	9	IT maintenance is outsourced and GM has good degree of understanding of IT	2	3	6	Periodic review of provision and maintain	General Manager
Staffing structure, recruitment, appraisal, training and development do not reflect needs of the Trust	Workforce not properly selected and trained so Charity does not operate effectively and efficiently and does not meet its objectives	4	4	16	Policies and procedures in place for recruitment, training and development of staff	2	3	6	Periodic review by General manager of overall staffing requirements plus regular performance appraisal meetings with all staff	General Manager
Inadequate contract management framework	Lack of clarity over contracts with impact on financial position of the Charity and Company	4	5	20	Contract management system being established	2	3	6	Periodic review by the General Manager	General Manager
Inadequate arrangements for CRB checks of individuals	Potential threat to vulnerable people and to the governance arrangements	4	5	20	CRB checks in place but scope will be reviewed by General Manager and MD	3	5	15	Periodic review by the General Manager and MD	General Manager and MD

Area of Risk	Potential Outcome	Probability	Impact	Unmitigated Risk Score	Controls for mitigating risk	Probability	Impact	Mitigated score	Monitoring Process	Responsibility
Lack of Disaster Recovery and Business Continuity Plans	Lack of plans would have major impact on operation of the Charity and be a major weakness in its governance arrangements	4	5	20	Plans will be developed as a high priority	4	5	20	Review by Trustees and General Manager	Trustees and General Manager
<b>Financial Risks</b>										
Claim by Firoka for damages	Potential impact on financial viability of Charity	3	5	15	None	3	5	15	Periodic reports about progress	General Manager
Problems recovering monies from Firoka alleged due under licence agreement	Potential impact on financial viability of Charity	5	1	5	Costs already absorbed into 2007/8 year figures	5	1	5	Trustees to decide if should pursue	Trustees
LBH decide unable and unwilling to continue to	Trust can longer operate	2	5	10	Agreement of annual contribution between Charity and LBH	1	5	5	Annual review by Board	Trustees
LBH do not clarify scale of financial support	Trust can longer operate	5	5	25	Documented agreement with LBH included as part of approval of annual financial plan by Trustees including any changes during the year due financial position of Charity being different to plan	2	5	10	Regular review by Board and General Manager	Trustees and General Manager
Poor internal financial control	Financial position and plan no longer sustainable	3	4	12	Regular internal review plus periodic appraisal by Internal Audit	2	4	8	Internal audit reports	General Manager
Significant reduction in contribution from the Trading Company	Financial position and plan no longer sustainable	4	4	16	Review by Trading Company Board and Charity General Manager now attends	3	4	12	Regular reports about performance by Trading Company	Trustees
Lack of robust approach to business planning by both Charity and APTL	Potential impact on financial viability of Charity and Company	4	5	20	Process in place through annual budget setting but will be reviewed by General Manager and MD of Company	3	4	12	Progress with further review	General Manager
<b>External risks</b>										
Adverse press coverage	Impact on the reputation and future development of APP	4	5	20	Trust to appoint PR representative	2	5	10	General Manager and Trustees	General Manager
<b>Compliance with law and regulation</b>										
Charity Commission investigation	Charity seem to operating illegally and not meeting its objectives	3	5	15	Charity is implementing changes in response to action plan	2	5	10	Progress review of action plan	Trustees
Regular review of compliance with law, regulation and compliance with best practice	Charity seem to operating illegally and not meeting its objectives	2	5	10	Regular internal legal advice being set out in service agreement prior to potential tendering exercise	2	5	10	Documented agreement	General Manager

**SCHEDULE 7**

**Schedule 7**  
**Draft General Procedures, protocol for decision making and for reporting.**

**1 Background**

- 1.1 Haringeys Standing Orders set out General Procedures to be followed by the Board and include the conduct of business, decision making and reporting. In addition the Charity Commission produce guidance to reporting particularly for annual reports and accounts. The draft set out in this Schedule sets out a framework for APPCT to follow that should meet the requirements of both Haringey as well as the Charity Commission.

**2 Application of Standing Orders**

- 2.1 These shall apply to meetings of the Board and the conduct of the Charity.

**3 Appointment of Trustee and Officers**

- 3.1 The Trustee are appointed by Haringey each year in accordance with the political composition of the Council.
- 3.2 The General Manager is appointed by the Trustees in accordance with the Charity's recruitment procedures and is a permanent employee of Haringey. The General Manager is responsible for the recruitment of all other staff employed by the Charity with the exception of the Secretary to the Board. This is the Committee Clerk at Haringey Council.

**4 Executive function**

- 4.1 This will be undertaken by the General Manager and their staff in accordance with the organisational structure, individuals' job descriptions, Scheme of Delegation, Code of Conduct. They will deal with business in line with the delegated powers of the General Manager and the specific responsibilities of each member of staff. It will be for the General Manager in discussion with the Chair to determine which issues shall be reported to the Trustees.

**5 Conduct of Business**

- 5.1 The Chair of Trustees shall preside at all meetings of the Board. **(This shall also apply to the proposed Audit and Risk Committee if approved).** If he/she is absent, unable or unwilling to preside the chair shall be taken by one of the following, selected in the order shown:
- the Vice-Chairman, if present;
  - a Trustee chosen by the other Trustees present.
- 5.2 Any member wishing to bring forward business at a meeting of the Board shall give written notice to the Secretary to the Board not less than two weeks before the date of the meeting. Requests made less than two weeks before a meeting may be included on the agenda at the discretion of the Chairman. Papers other than those circulated to members by the Secretary to the Board shall not be considered by the Board without the prior consent of the Chairman.
- 5.3 Members shall address the Chair and direct their speeches to the question under discussion or to a personal explanation or to a point of order.
- 5.4 No discussion shall be allowed on a motion or amendment which has not been seconded, except that a motion may be proposed without notice by the Chair.

- 5.5 No member shall speak more than once on a motion or more than once on any particular amendment, unless the Chair permits them to do so.
- 5.6 Every amendment must be relevant to the motion on which it is moved and shall not have the effect of introducing a new proposal into or of negating the motion before the meeting. The question of relevance and negation shall be decided by the Chair.
- 5.7 All variations upon a motion shall be deemed amendments and shall be treated as such, unless made by the mover of the original motion with the consent of a majority of the members present.
- 5.8 Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. This shall not prevent notice of a further amendment being given.
- 5.9 If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.
- 5.10 A motion or amendment may be withdrawn by the mover and seconder with the consent of a majority of the Trustees present.
- 5.11 When a motion is under debate no other motion shall be moved except the following:
- to amend the motion;
  - to adjourn the meeting;
  - to adjourn the debate;
  - to proceed to the next business;
  - that the question be now put;
  - that a part or parts of a motion be voted on separately;
  - that consideration of the motion be deferred to a subsequent meeting
- 5.12 Every motion or amendment shall be determined by a simple majority of members of the Board present and voting except where otherwise specified. In the case of equality of votes the Chair shall have a second or casting vote. The Chair shall not be obliged to exercise this casting vote. Where the Chair declines so to vote the Chair shall declare the motion 'not carried'. The Chair shall be entitled to call for a recorded vote should he/she consider that the matter to be determined is of exceptional importance to the well-being of the Trust.
- 5.13 An earlier decision of the Board may be rescinded provided that notice of motion to rescind the decision shall be circulated to members at least one week before the meeting of Board at which it is to be considered and that the proposed rescission shall be approved by a majority of at least two-thirds of the trustees present.
- 5.15 The ruling of the Chair on a point of order or on the admissibility of a personal explanation shall not be open to discussion.
- 5.16 If at any meeting any trustee, in the opinion of the Chair, misconducts him/herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Board, it shall be appropriate for another trustee to move either that the Board member be asked to leave the meeting or to take no further part in the discussion.
- 5.17 If after a motion under the foregoing Standing Order has been carried, the misconduct or obstruction is continued, and in the opinion of the Chair renders the due and orderly dispatch of business impossible, the Chair, in addition to any other powers vested in him may, at his absolute discretion, adjourn or suspend the sitting of the Board for such period as he considers expedient.
- 6 **Amendments to and suspension of standing orders**

- 6.1 These Standing Orders may be revoked, amended or added to by the Board provided that the terms of the proposed alteration shall be circulated to trustees at least one week before the meeting at which they are to be considered and that the proposed alteration shall be approved by a majority of at least two-thirds of the members present and voting.
- 6.2 Sections of these Standings Orders may be suspended for a specified item of business by a vote of at least two-thirds of the trustees present. Standing Orders shall again apply immediately the specified item has been completed.
- 7 **APPROVAL OF MINUTES**
- 7.1 The Chair shall put the question: 'That the minutes of the previous meeting of the Board be approved as a correct record'. No discussion shall take place upon the minutes, except upon their accuracy and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Chairman shall duly sign the minutes.
- 8 **Contracts and signature of documents**  
Details of these are covered in Schedule 6 Appendix A and in Schedule 11 of this Governance framework.
- 9 **Decision making**
- 9.1. No decision shall be taken except upon a written report in accordance with this Protocol.
- 9.2 The General Manager shall prepare a written report which shall be the subject of consultation with financial, legal and other corporate advice. The written report shall set out: -
- (a) the issue to be decided
  - (b) an executive summary of the issue, where the length of the report so requires for clarity
  - (c) any recommended restrictions upon the publication of the report or public attendance at the making of the final decision,
  - (d) the facts upon which any decision must be based
  - (e) any legal implications or legislative requirements
  - (f) any relevant national guidance
  - (g) the options available to the Charity
  - (h) the staffing implications of the issue
  - (i) comments on the financial implications
  - (j) any other specialist advice sought or consultations undertaken
  - (k) any major risks that may affect the decision or which could result from it
  - (l) the recommendation in respect of the proposed decision and the reasons supporting the recommendation
  - (m) the place, date and time at which the body proposes to make its decision
  - (n) a list of any background papers
- 9.3 All papers to be presented to the Board will be circulated in advance to Haringey to allow for any comments by the Section 151 Officer to be included on a separate sheet or report.
- 9.4 At least 7 clear days before the proposed date and time for taking the final decision, the General Manager shall send a copy of the report, or arrange for a copy of the report to be sent to all Trustees of the Charity.
- 9.5 The cycle of meetings shall be four a year with special meeting as required.
- 9.6 **Urgent Decisions**



Where the General Manager is of the opinion that a relevant decision should be made urgently in order to prevent or reduce the risk of damage to persons or property or to the interests of the Charity, and that the urgency of the matter is such that it is not practicable to complete the decision-making process set out above the decision may be deemed "urgent". This shall be referred to the Alexandra Palace and Park Panel for consideration and decision in accordance with their terms of reference. A report on the issue, including the reasons for it being deemed as urgent, will be presented to the next meeting of the Board for information. These urgency procedures should only be used in cases of genuine urgency and should not be abused.

**10 Internal Reporting - suggested format for all reports**

<p>Report to Alexandra Palace and Park Board</p> <p>Date .....</p> <p>Public/Confidential Session.....</p>
Title
Purpose
Executive Summary
Recommendations
Legal Implications
Financial Implications (specify whether Income and Expenditure, Capital Investment and Balance Sheet)
Risks (specify whether major, intermediate or minor including risk score before and after mitigating action)
Author and Date of report
List of supporting papers - Main report and appendices

**11 External reporting**

11.1 “The Charity Commission expects all charities to comply fully with the relevant SORP unless there is good reason to diverge, in which case any divergence must be clearly explained in the Annual Report and Accounts. A failure in SORP compliance could indicate a failure of trustees’ duties to administer a charity properly. We may take regulatory action if trustees cannot adequately explain their failure to comply with the Charities SORP”. ( Charity Commission\_Transparency and Accountability RS8 2004) The Statement of Recommended Practice 2005 highlighted a framework for setting out the Annual Report that covers the following areas;

**- Reference and Administrative details**

- The registered name and number of the charity
- The address of the principal office of the charity and the charitable company
- The names of all trustees both current and previously during the year
- The name of the Chief Executive or other senior staff member to whom the management of the charity is delegated
- The names and addresses of any other relevant organisation or persons such as bankers, solicitors, auditor and investment and other advisors

**- Structure, Governance and Management**

- The nature of the governing document and how the charity is constituted
- The methods adopted for the recruitment and appointment of new trustees including details of how Haringey appoints trustees
- The policies and procedures adopted for the induction and training of trustees
- The organisational structure of the charity and how decisions are made ie which are for the trustees and which are delegated to staff
- The relationship between the charity and related parties including its subsidiaries
- A statement confirming major risks to which the charity is exposed as identified by the trustees and that these have been reviewed and systems and procedures put in place to manage these

**- Objectives and Activities**

- A summary of the objects of the charity as set out in the governing document
- An explanation of the charity’s aims including the changes or differences made through its activities
- An explanation of the charity’s main objectives for the year
- An explanation of the charity’s strategies for achieving its stated objectives
- Details of significant activities that contribute to the achievement of its stated objectives
- Where the charity makes significant use of volunteers then this should be explained

**- Achievements and Performance**

- A review of charitable activities undertaken that explains performance achieved against objectives including the use of qualitative and quantitative information to help assess this

- Where material fundraising activities are undertaken details or performance against objectives, including material expenditure for future income generation
- Where material investments are held details of performance against objectives
- Comments on those factors within and outside the charity's control that are relevant to the achievement of its objectives such as its employees, users, beneficiaries, funders and the charity's position in the wider community.
- **Financial Review**
- Policy on reserves
- Where the fund is materially in deficit the circumstances giving rise to it and details of how this will be eliminated
- Principal funding sources and how expenditure has supported its key objectives
- **Plans for future periods**
- An explanation of the charity's plans for the future including the aims and key objectives it has set together with activities planned to achieve these

- 11.2 It also highlighted additional disclosures required that include the name of the Chief Executive or senior staff, induction and training provided for new trustees, details of any social or programme related investments, principal funding sources and details of any social, environmental and ethical concerns taken account of in investment policy. The objectives of these recommendations were to;
- Improve the quality of financial reporting
  - Enhance the relevance, comparability and understandability of information presented
  - Provide clarification, explanation and interpretation of accounting standards and of their application in the charities' sector
- Assisting those preparing the Annual Report and Annual Accounts
- 11.3 The main legislative sources that set out requirements relating to the form and content of charity accounts and reports are;
- The Charities Act 1993 and Regulations made there under
  - The Companies Act 1985 and 1989
  - The Industrial and Provident Societies Acts 1965 to 2002
- Charity accounts should be accompanied and complemented by other information contained within the Annual report and this is the responsibility of Trustees to provide.
- 11.4 Annual Accounts must be prepared on the ongoing concern assumption and the accruals concept and provide information that is relevant, reliable, comparable and understandable. Accounts prepared showing a true and fair view should follow the standards and principles issued and adopted by the Accounting Standards Board and set out in;
- a) Statements of Standard Accounting Practice
  - b) Financial Reporting Standards
  - c) Urgent issues Task Force
  - d) The interpretation of Public Benefit Entities of the Statement of Principles for Financial Reporting
- To comply with legal requirements, trustees must submit their Annual Report and Accounts to the Charity Commission within 10 months of their financial year end. Timely submission also demonstrates to stakeholders that the charity is willing to be accountable to the regulator.
- 11.5 Governance Costs are shown on the analysis of the Charity's expenditure as part of the Statement of Financial Activities. These include the cost of governance

arrangements related to the general running of the Charity. These activities provide the governance infrastructure that allows the Charity to operate and to generate the information required for public accountability and this includes the strategic planning processes that contribute to the future development of the charity. It will include both direct and related support costs. Direct costs will include internal and external audit, legal advice for trustees and costs associated with constitutional and statutory requirements such as the cost of trustee meetings and preparing statutory accounts. Where material there should also be an apportionment of shared and indirect costs involved in supporting the governance activities. An analysis of the main items of expenditure included within this may be included within the notes to the accounts where this is considered useful.

- 11.6 Charitable Companies must comply with the Companies Act 1985 with respect to the form and content of their accounts. This Act stipulates the contents of the annual Directors report. An Annual report and Directors report should be produced although just a Directors report can be produced if it contains all of the required information. It must produce annual financial statements which give a true and fair view of its state of affairs at the end of the year including its profit and loss for that year. It is assumed that charitable companies will have to comply with the 2005 Statement of Recommended Practice.

**SCHEDULE 8**

## **Governance relationship between APP Charitable Trust and AP Trading Company**

### **1 Background**

**( Extract from Charity Commission Publication Trustees, trading and tax CC35 April 2007)**

- 1.1 Where trading (other than trading in pursuit of its charitable objects) involves significant risk to a charity's assets, it must be undertaken by a trading subsidiary. But even where it is not **essential** for the trading to be undertaken by a trading subsidiary, the use of trading subsidiaries may produce benefits, for example in reducing tax liabilities. In particular, trading subsidiaries may make donations to their parent charity as 'Gift Aid', so reducing or eliminating the profits of the subsidiary which are liable to tax.
- 1.2 Trustees of charities with one or more trading subsidiaries need to be aware of their responsibilities. In particular they need to remember, in all decisions made in regard to a trading subsidiary, that the interests of the charity are paramount. The interests of a trading subsidiary, its directors, creditors or employees, must all be secondary to those of the charity.
- 1.3 This is because the purpose of using a trading subsidiary is to benefit the charity in some way, for example to protect the charity's assets from the risks of trading, or to increase the level of financial return to the charity by saving tax. If the charity's assets are employed or put at risk for the benefit of the subsidiary, or its directors, creditors or employees, then that purpose is frustrated. In such cases, the trustees of the charity may be personally liable for any loss of, or decline in value of, the charity's assets.

### **2 Licence Agreement**

- 2.1 A licence agreed on 7<sup>th</sup> January 2008 between the Charity (the Licensor) allowing the Company (the Licensee) " to enter upon those parts of the Property herein after described for the purposes set out in this licence
- 2.2 The annual payment is £150k and the term assumes a period of notice of not less than four years unless the Charity engages with a developer; in which case the period of notice is not less than six months.

### **3 Share ownership**

- 3.1 The Company is wholly owned by the Charity and its objectives are to generate the maximum contribution towards the running costs of the Charity through its profits that are covenanted to APPCT through the Gift aid scheme. The Charity has the two shares that make up its original share capital

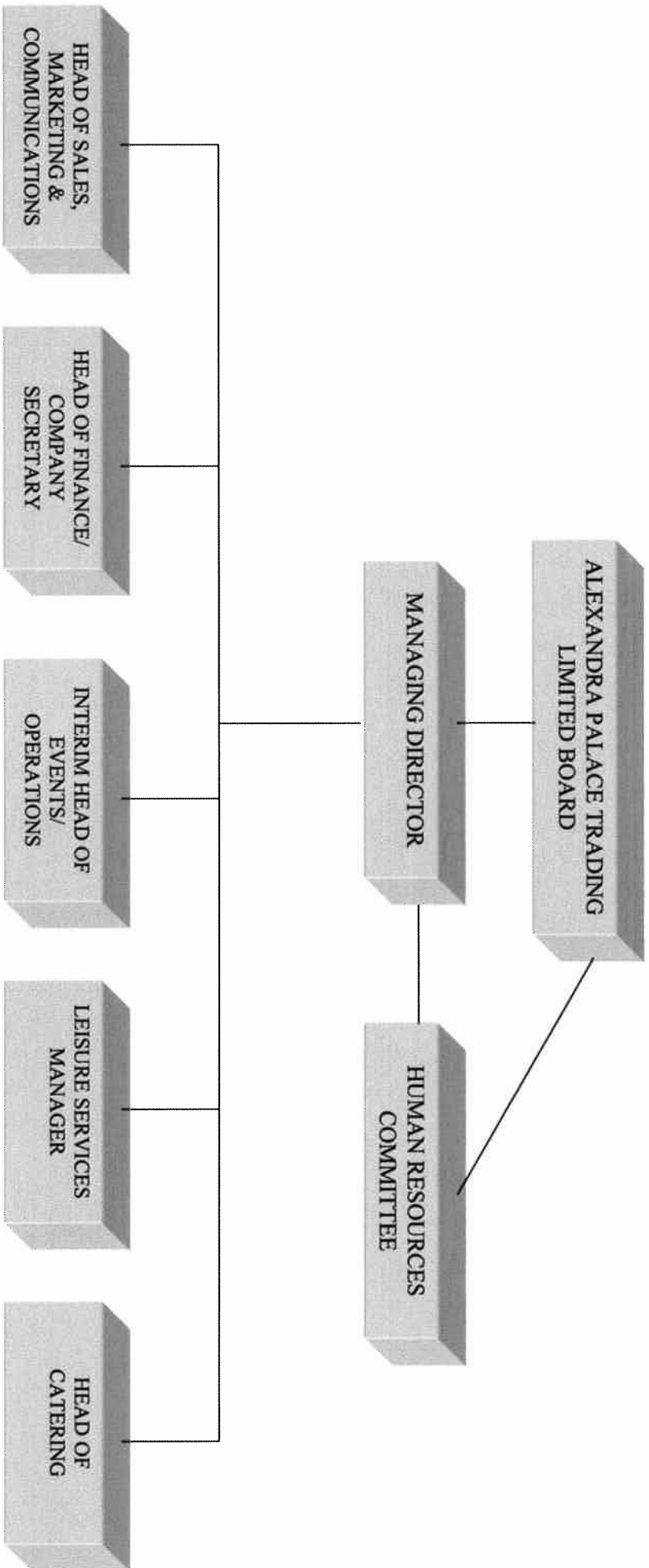
### **4 Memorandum and Articles of Association**

- 4.1 These identify the Board of Directors as consisting of ;  
 Four who are trustees of the Charity  
 One who is an employee of the Company  
 One who is an Officer of the Council  
 Two others who are none of the above or members of Haringey Council  
 The General Manager of the Charity shall be invited to attend Board meetings as an observer at which he can be invited to comment on the item under discussion

### **5 Powers of Directors**

- 5.1 Subject to the provisions of the Act, the Memorandum and the Articles and to any directions given by special resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. (Memorandum and Articles of Association Paragraph 10)
  - 5.2 The Directors may delegate any of their powers to any committee consisting of one or more Directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him or her. (Memorandum and Articles of Association Paragraph 11)
- 6 Organisational structure including roles and responsibilities**
- 6.1 These are set out at the annex to this Schedule

ALEXANDRA PALACE TRADING LIMITED:  
MANAGEMENT STRUCTURE





**SCHEDULE 9**

**Schedule 9****Summary of APPCT Internal Procedures****1 Background**

- 1.1 This document contains the general operating procedures for the Charity. The Charity is principally governed by various acts of Parliament which are collectively known as the Alexandra Palace and Park acts 1900-2004.
- 1.2 The Charity's governance is provided by the trustees who are appointed annually by the London Borough of Haringey which is the overall trustee. The management and operation of the charity on a day to day basis is delegated by the trustees to the General Manager.
- 1.3 The General Manager has the powers and duties of a Director as set out in the constitution of the London Borough of Haringey. This includes general delegation from the Council as set out in Part F7 section 8 of the constitution.
- 1.4 The Charity's staffing procedures are based upon the policies and procedures of the London Borough of Haringey.
- 1.5 Where guidance is needed it should be obtained from the Councils constitution and from the Charity commission, where there is any conflict between charity Law and the Local Authority then the Charity law shall prevail

**2. ORDERS****2.1 ESTIMATED VALUE LESS THAN £5,000**

The service or goods are to be researched in order to obtain expedient, efficient management of the service.

Orders are to be signed by Office Manager or Parks Manager.

Invoice to be signed by Manager who researched/requested service.

**2.2 ESTIMATED VALUE MORE THAN £5,000 BUT LESS THAN £25,000**

Quotations should be obtained or tender procedure followed unless General Manager (GM) decides processes are not appropriate in order to secure value for money for the Charity. If such cases the GM may determine another process of selecting a contractor which will meet best value criteria. The decision and process must be properly documented.

**2.3 ESTIMATED VALUE MORE THAN £25,000**

Contracts with an estimated value of more than £25,000 must be let following a competitive tendering process following CSO except as otherwise provided.

No orders or contracts are to be placed until sufficient resources has been identified in the relevant budget.

**2.4 SUMMARY**

Up to £5,000 – discretionary.

Up to £25,000 – best value or alternative quotations.

Over £25,000 – Tender

**3 OFFICE PROCEDURES**

Invoices registered by Accounts Clerk.

Orders up to £5000 signed by Office manager or Parks Manager

Orders up to £25,000 signed by Office Manager.

Orders over £25,000 countersigned by GM except for Monthly contract orders/utilities to enable processing of invoice signed by Office Manager.

Invoices must be approved and signed by relevant Manager before processing for payment.

Copies taken by Office Manager, logged on spreadsheet, original with pink copy order to Accounts Clerk to process.

**4 Authorisation of cheques**

Cheques under £5,000 are to signed by any one of the three signatories.

Cheques over £5,000 require two signatures from the three authorized signatories (who are General Manager, Chair & Vice Chair of Board.)

**5 TENDERS**

The General Manager has the authority to waive any of the provision of CSO 12 where a contract value is £50,000 or less.

The Board of Trustees has the authority to waive any of the provisions of CSO 12 where a contract value is between £50,000 and £250,000.

**6 TENDER PROCEDURE**

**Open tender** – interested contractors submit tender in response to an advertisement.

Or

**Restricted procedures** – tenderers selected from expressions of interest in response to advert.

**Restricted procedures**

Advertisements placed with OJEU (contracts limits should be checked against latest EU regulations) and/or appropriate publications.

Tenderers selected via Expressions of Interest.

Company checks carried out on all companies to ensure they are solvent and that the advertised contract would not become more than 25% of their annual turnover.

Selected tenderers (possibly including existing contractor) are to be sent tender package to include:

Covering letter

Form of Tender

Instructions to Tenderer

Specification/Scope of Work

Agreement/Conditions of Contract

Returns Label

Some variations may occur depending on the type of contract.

In compliance with the Instructions to Tenderer any questions/queries raised regarding the tender package must be in writing and the response should be conveyed to all the other tenderers in writing.

Tenders to be opened by two officers who have had no involvement in the tendering process.

A Bid Opening Register to be produced showing example below:

**Sample:**

**Bid Opening Register**

**Provision of Service for:**.....**Date of Service:**.....

<b>Company</b>	<b>Amount</b>
Name of Company 1	£.....
Name of Company 2	£.....

Date:	
Signed:	

Witnessed by:	
---------------	--

Bid clarification meetings can be held but notes should be taken and filed appropriately. A Board Paper will be presented to Trustees with recommendations.

**Post Award:**

Write to successful tenderer awarding contract.

Write to unsuccessful tenderers.

All tender documents to be sent to Borough Solicitor together with a copy of the Resolution authorizing the contract.

Signed contracts should be in place prior to the commencement of work – if this is not possible a Letter of Intent should be produced - maximum cover is 10% of contract price in respect of works or services contracts, or £50,000 in respect of supplies contracts.

Post Award notice in OJEU.

**7 STAFFING**

7.1 The General Manager has the power to appoint and dismiss staff in accordance with Haringey Council’s procedures.

The performance of staff will be regularly reviewed as part of staff development and review framework

All staff must complete timesheets in a timely manner.

Where staff are absent due to sickness a Complete Return to Work Form should be completed if less than seven consecutive days.

Staff must phone by 9am on first day of sickness and estimate length of leave.

Annual Leave Cards to be completed and authorized by General Manager.

**8 DISPOSAL OF ASSETS**

8.1 Where APPCT assets are to be disposed because they are surplus to requirements, damaged or obsolete, reasonable endeavours must be undertaken to realize the

## APPENDIX 2 continued

residual value of the assets. Assets having little or not realisable value may be disposed of as waste with the approval of the General Manager provided the disposal shall be in favour of recycling wherever possible.

- 8.2 In respect of assets to be disposed of having an estimated value of less than £5,000 the General Manager concerned should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.
- 8.3 Assets recommended for disposal with an estimated value or more than £5,000 shall be disposed of in such a manner as to secure best value.
- 8.4 **Under no circumstances shall disposal of APPCT assets be made to employees without the prior approval of the General Manager.**

## 9 SUMMARY OF LARGE CONTRACTS

### 9.1 GROUNDS MAINTENANCE CONTRACT:

John O'Connor – commenced 1 May 2008 to 31st April 2011

### 9.2 ENGINEERING MAINTENANCE CONTRACT:

Integral Engineering expires August 2010

### 9.3 SECURITY CONTRACT:

Mitie Security (London) Limited up to 31 March 2009 tender underway.

### 9.4 BUILDING INSURANCE

Zurich Municipal Long term agreement expires end of cover 31<sup>st</sup> March 2009 tender underway.

## 10 SUMMARY OF ANNUAL CONTRACTS

B & M Installations	Park fire alarm maintenance
Banham Alarms	Redcare intruder monitoring
BT Payphones	Payphones in halls
Corona Energy (OGC)	Gas supplier
Edwards Pest Control	Pest Control
EDF Energy (OGC)	Electric supplier
Eurolab	Asbestos monitoring
Greenclean Limited	Window cleaning
Hako	Machine maintenance
Henry Willis & Sons	Organ maintenance
I Cel	Switchboard
Mitie Intruder	CCTV/Access system
Premier Appointments	BBC cleaning
Rainbow Cleaning	Park toilet cleaning
Royal Mail	Collection/delivery of post
Technica Solutions	IT maintenance

## 11 Advisors to the Charity

The charity retains professional advisors to assist in the organization and management of the charity's affairs.

Howard Kennedy

Charity Solicitors

**12. WHISTLEBLOWING****12.1 WHAT IS WHISTLEBLOWING?**

Whistleblowing is when an employee discloses i.e. “blows the whistle” on any wrongdoings such as fraud, malpractice, mismanagement, breach of any health and safety law or any other illegal act, either on the part of management or by fellow employees. It often happens when:

- (i) employees have tried to complain through internal channels and have failed;
- (ii) the organisation’s culture persuades employees that complaints will be ignored;
- (iii) The person committing malpractice is the employee’s direct boss and/or at the top of the organization, so again employees feel to complain directly would be useless and result in victimization.

**12.2 MANAGEMENT RESPONSIBILITY**

When employees discover something is wrong they should be encouraged to report the malpractice. This gives managers the chance to correct any malpractice before the issue escalates. Managers must try to ensure that employees who make a complaint have confidence that:

- (a) it is going to be properly investigated and addressed;
- (b) they will suffer no detriment as a result of speaking out.

NB: Victimising or deterring employees from raising legitimate concerns is a serious disciplinary offence. Whistleblowers are also afforded protection under the Public Interest Disclosure Act.

Manager must have respect for the confidentiality of employees raising concerns if they (the employees) so wish. However, employees should be made aware that during the investigation the source of any information may need to be revealed and the individual may be required to provide a statement.

**12.3 INTERNAL REPORTING MECHANISMS FOR DEALING WITH WHISTLEBLOWING COMPLAINTS**

As a first step, individuals should normally raise concerns with their line manager or their manager (grandparent role) or the General Manager. Secondly, if for example they believe management is involved, they should approach the General Manager, Human Resources or Internal Audit. The next step should be to the Trustees and finally to an external agency (see below). Depending on the seriousness of the allegation and who is suspected of the malpractice, individuals may wish to report directly to the General Manager Executive or the Trustees. It must be emphasised that before deciding on using external mechanisms a final request to the General Manager or trustees should be encouraged. If whistle blowers fear that their employer will bring retribution they can make a wider disclosure to the police, the media or MPs.

**12.4 EXTERNAL REPORT MECHANISMS**

If individuals do not feel confident using the internal reporting channels they should contact Public Concern at Work an external organisation used by Haringey Council for this purpose. They operate a legal helpline and all calls will be treated confidentially. The helpline is handled by qualified lawyers who will provide advice on how to proceed with the complaint. Tel: 020 7404 6608 or find other contact details via their website at [www.pcaw.co.uk](http://www.pcaw.co.uk).

**13. DATA PROTECTION**

13.1 All staff must be aware and ensure they comply fully with the Data Protection Act.

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**ALEXANDRA PALACE & PARK BOARD**

**Appendix 3**

24 February 2009

**Report of Messrs Howard Kennedy, the Trust's Solicitors.**

**Subject: The Duties and Powers of the Trustees of the Alexandra Palace and Park Charitable Trust.**

1. **Purpose.**

To restate the Duties and Powers of the Trustees.

2. **Summary**

This report updates the report to the Board in October 1993 in which we set out the duties and powers of the Trustees. The main changes to the trustees' powers since that report are in consequence of:

1. the Court of Appeal decision in May 1994 in the ski slope case (Alexandra Palace Ski Centre Limited v Haringey London Borough Council) and
2. the Charities (Alexandra Park and Palace) Order 2004.

As with the 1993 report this is intended to serve as a document of record and a comprehensive statement of the Trustees' existing duties and powers.

3. **Recommendation**

The position be noted.

4. **Report**

**A Little Relevant History**

- 4.1 Before 1900 Alexandra Palace and Park were in private hands. A great deal of the land in the Park had previously been sold and in 1900 there was a danger that the

remaining estate would go on to the market for building. A number of local authorities took steps to save the property and land for the benefit of the public.

- 4.2 The Alexandra Park and Palace (Public Purposes) Act 1900 (*"the 1900 Act"*) was enacted. It constituted a body of Trustees to acquire the Alexandra Park and Palace and other lands and empowered them to hold and manage the same.
- 4.3 The duties and powers of the Trustees were set out in Section 17 of the 1900 Act. The overriding obligation of the trustees was that:

**"the Park and other lands shall be maintained as an open space and the Park Palace and other lands shall be available for the free use and recreation of the public for ever"**

- 4.4. There were two further Acts passed, the Alexandra Park and Palace Act 1903 and the Alexandra Park and Palace Act 1905 both of which were repealed in 1966.
- 4.5 There was a further Act, the Alexandra Park and Palace Act 1913 (*"the 1913 Act"*) which conferred additional powers upon the Trustees.
- 4.6. The London Government Act 1963 created the Greater London Council and reorganised local authorities. In 1966 the Minister of Housing and Local Government made the Alexandra Park and Palace Order 1966 (*"the 1966 Order"*). This provided that the functions of the Trustees in respect of the Park (the land and buildings known as Alexandra Park and Palace) should in future be exercised by the Greater London Council, the Trustees should cease to exist and the Park should be held by the GLC for the purposes of the Open Spaces Act 1906.

#### **The Court hold the Trusts are Charitable**

- 4.7. In 1967 the Trustees, even though the 1966 order had declared that they had ceased to exist, issued proceedings. They were seeking a declaration that the Minister of Housing and Local Government did not have power to make the 1966 Order.
- 4.8. Those proceedings went before the Chancery Division of the High Court in June 1967. They resulted in the Court declaring:-
  1. that the trusts declared by the 1900 Act were valid charitable trusts. This was because the 1900 Act imposed upon the

Trustees a duty to use the Park and Palace and to apply the income for purposes which were wholly charitable since the only substantive purposes were the free recreation of the public by the maintaining of the Park and Palace as a place of public resort and recreation ...; and

2. that the 1966 order transferring the Park (as defined) to the GLC was valid.

In consequence of this decision the Trusts were registered as a charity although this did not in fact take place until March 1981, after the transfer to Haringey.

### **Transfer to Haringey and the 1985 Act**

- 4.9. During the 1970s the future of Alexandra Palace and Park was much debated. Agreement was reached for it to be transferred to the London Borough of Haringey ("*Haringey*"). A scheme was devised for its modest redevelopment (the 1980 proposals) and an application was made for planning permission.
- 4.10. On 1st January 1980 Alexandra Palace and Park were transferred by the GLC to Haringey.
- 4.11. A Parliamentary Bill was introduced in the House of Lords in the 1979/1980 Session to empower the Trustees in respect of the 1980 proposals.
- 4.12. Before that Bill made any real progress through Parliament, the Palace was substantially destroyed in the fire of 10th July 1980. After the fire Haringey reconsidered the 1980 proposals. It came forward with a comprehensive new proposal (the 1981 proposals) for redevelopment of Alexandra Palace. An application was made for planning permission. From mid-1981 onwards the then Borough Solicitor was advised by Leonard Bromley QC in respect of the development proposals for the Palace and Park and on the question of the Trustees' powers.
- 4.13. On 15th July 1985, the Alexandra Park and Palace Act 1985 was enacted. This amended the powers set out in the 1900 and 1913 Acts as well as the 1966 Order. The 1985 Act sets out in Schedule 3 those parts of the 1900 and 1913 Acts and 1966 Order which remains in force, as amended by each successive Act and the 1966 Order. The 1985 Act sets out, inter alia, the Trustees' duties and powers.

- 4.14. The point should be made at this stage that what became the 1985 Act was promoted through Parliament against much hostility and opposition, including that of the local MP. The Act represents a compromise. It was the widest extension of powers that the promoters (Haringey) could push through Parliament. The Act was drawn around the 1981 proposals. It is accordingly narrower and more limited than it might have been in different circumstances.
- 4.15. One of the matters about which there was uncertainty was the extent to which the trustees were empowered to levy charges. This was because of the use in the 1900 Act of the expression “free use and recreation.” (See paragraph 4.3 above.)
- 4.16. The trustees had, in 1983 granted a lease to Alexandra Palace Ski Centre Ltd. This lease contained a provision enabling the Ski Centre to charge for admission. The trustees were desirous of establishing that they did have a power to charge notwithstanding the use of the expression “free use and recreation.”
- 4.17. Accordingly they challenged their grant of the lease arguing that if the trustees did not have power to charge then they could not authorise the Ski Centre, as their lessee, to charge for entry.
- 4.18. The case went to the Court of Appeal where it was reported as *Alexandra Palace Ski Centre Ltd v Haringey London Borough Council* [1994] *New Property Cases* 73.] The court held that whilst there was no express power to permit tenants to charge for admission there was an implied power to do so. It held that
- “An act of parliament must, wherever possible, be read so as to give its terms meaning and efficacy. Thus where the Acts give the trustees power to grant leases of parts of the park, it is reasonable to infer that parliament intended that power to be exercised within the framework of the duties imposed on the trustees. In other word if there is power to grant a lease, it must be power to grant an effective lease.”
- 4.19. Since that decision the trustees have managed the charity on the basis that their powers include an ability to charge for admission and to permit others to do so. The expression “free use and recreation” has been construed as “unlimited use and recreation.”
- 4.20. The other significant change to the trustees’ powers is as a consequence of the passing of the Charities (Alexandra Park and Palace) Order 2004 as per paragraph 2.2 above.

- 4.21 The background to this Order was the desire of the trustees, going back to the early 1990's, to grant a holistic lease of the palace buildings to a developer and in that way "shift the risk" of the trusteeship and secure through a developer the introduction of substantial funds to develop the 40% of the building that remained derelict after the 1980 fire.
- 4.22 There remained uncertainty as to the extent of the trustees' powers under the legislation, as amended in 1985, to grant a lease of the whole. They clearly had power to grant a lease or leases of part or parts. Accordingly the Charity Commission agreed to promote a scheme which was eventually enacted as the 2004 Order which, in its explanatory note, states that:

"The scheme empowers the trustees to lease the whole or part or parts of the palace and its immediate surrounding area for a term not exceeding 125 years, subject to obtaining the consent, by order made under the Charities Act 1993 of the Charity Commissioners. The scheme does not amend the purposes for which either the park or the palace are held on trust."

#### **Duties and Powers**

- 4.23 Before examining and analysing the duties and powers as contained in the 1985 Act as amended by the 2004 Order, it is worth repeating the observations made in the High Court in the 1967 case referred to in paragraph 4.8. The learned judge said of Section 17

"The Scheme of Section 17 is an extremely odd one. The Trustees are first in terms given in a permissive sense certain powers. The powers themselves range from what are undoubtedly substantive purposes through ancillary purposes to, at the end of the scale, mere administrative powers. In two instances at any rate, what is expressed as a power is in fact in truth a mandatory duty."

- 4.24. We will set out the duties and powers as we understand them. We would like to make the point that the advice we are giving is what we regard as the best advice. There are a number of disputed issues where it is possible to advance alternative constructions. As our advice is to trustees, we consider prudence dictates it should err on the side of caution.
- 4.25. After each duty and power we have indicated a reference in parentheses which is where the obliging or empowering provision is found. As indicated in paragraph 4.13,

Schedule 3 of the 1985 Act includes all the earlier provisions amended. Our references are to the amended provisions as they appear in Schedule 3 of the 1985 Act or 2004 Order.

4.26. The Trustees **duties** are –

4.26.1 To uphold, maintain and repair the Palace and other brick and stone buildings. (17(i)).

4.26.2. Where they have acted in accordance with powers as set out in 4.22.6 and 4.22.7, they shall uphold maintain and repair such buildings or, where they are no longer necessary or desirable, remove them. (17(ii)).

4.26.3 To maintain the Park and other lands as an open space (17).

4.26.4. To hold the Park for the purposes of the Open Spaces Act 1906. (1966 Order S.7). What the High Court said of this duty in the 1967 decision was

“and there are thrown in certain further powers relating to the Open Spaces Act 1906 and Public Health Act 1962. I was referred to the Open Spaces Act 1906. I think it is not suggested that the provisions of that Act either add to or subtract from, in any material respect, the provisions contained in Section 17 of the Act of 1900”

4.26.5. To keep available the Park, Palace and other lands for the free use and recreation of the public for ever. (17).

4.27. The Trustees **powers** are to —

4.27.1. Improve and extend the Park. (17(i))

4.27.2. Improve and extend the lands. (17(i)).

4.27.3. Improve and extend the buildings. (17(i)).

4.27.4. Lay out, form, fence and maintain grounds for cricket and other games, sports, meetings, assemblies and other purposes. (17(i)).

4.27.5. Lay out gardens, roads, walks, fences, plantations, ornamental lakes and spaces for military drill and exercise. (17(i)).

4.27.6. Erect, provide, equip, furnish, maintain conservatories, refreshment rooms, shelters and conveniences necessary or desirable for the use and enjoyment of the Park as an open space. (17(ii)).

- 4.27.7. Erect, provide, equip, furnish, maintain conservatories, refreshment rooms, shelters and conveniences in or contiguous to the existing buildings, libraries, reading rooms, museums, concert rooms and other buildings for the use and enjoyment of the public. (17(ii)).
- 4.27.8. Maintain, uphold and improve the existing theatre primarily for use or uses as a theatre, concert hall, recording studio or cinema, secondarily for any purposes for which they can use any other part of the Palace except as an hotel. (17 (iii))
- 4.27.9. Set apart and appropriate any portion of the Palace and other buildings for such purposes of public utility, instruction or benefit on terms consistent with the objects of this Act (i.e. free (unlimited) use and recreation). (17 (iv)).
- 4.27.10. Let at the best rent reasonably obtainable regard being had to the purposes of the Act, (i.e. free use and recreation) subject to the consent by order of the Charity Commissioners for not more than 125 years the whole or part or parts of the Palace buildings and immediate surrounding area as shown on the plan attached to the 2004 order (2004 Order paragraph 3.)
- 4.27.11. Let or license at the best rent reasonably obtainable regard being had to the purposes of the Act (i.e. free use and recreation) for not more than 22 years, or with Charity Commissioners' approval not more than 125 years, the right of supplying and selling refreshments in any part or parts of the Park and Palace and may authorise the lessees or licensees to charge for admission to any building or portion demised or licensed. (17(v)).
- 4.27.12. May close part of the Palace for not more than 14 days a year and exclude the public except on payment of admission fee. (17(v)).
- 4.27.13. May close part of the Park for not more than 14 days and exclude the public except on payment of admission fee. (17(vi)).
- 4.27.14. May let any part of the Palace on any days on which closed as aforesaid. (17 (vi)).
- 4.27.15. May let any part of the Park on days closed as aforesaid. (17(vi)).
- 4.27.16. May provide free of charge reasonable accommodation for volunteer forces and educational purposes. ( 17(vii)).
- 4.27.17. May do any act or thing which may in the judgment of the Trustees appear calculated to promote the use and enjoyment of the Park and Palace

by the public. (S.17(ix) (The High Court held that this "*merely enables the Trustees to perform acts ancillary to the use and enjoyment of the Park and Palace to the public*")

- 4.27.18. May dispose of land acquired since the passing of the 1985 Act. (Our understanding is that there is none). (17(x)).
- 4.27.19. May enter into and carry into effect contracts for holding at the Park and Palace exhibitions, shows or other displays. (1913 Act 5.2(1)).
- 4.27.20. May close any portion of the Palace or not more than 50 acres of the Park for an exhibition, show or other display for a period not exceeding 9 months and exclude the public other than on payment. (1913 Act 8.2(1)).
- 4.27.21. May for such exhibition, show or display as aforesaid authorise the erection of temporary buildings. (1913 Act 8.2(3)).
- 4.27.22. May charge or authorise charging for admission to such exhibition, show or display. (1913 Act S.2(4)). Under these powers no part of the Palace or Park may be closed more than two years in any period of six years. (1913 Act S.2(6)).
- 4.27.23. May let for not more than 22 years, not more than 40 acres of the Palace and Park for games, recreation or playgrounds in connection with any school. (1913 Act S.4).
- 4.27.24. May let for not more than 22 years of the total of 40 acres referred to in the previous paragraph not more than 20 acres for recreation other than games. (1913 Act 5.4).
- 4.27.25. May temporarily set apart, appropriate and enclose any part of the Park or Palace not exceeding 15 acres for the purpose of concerts, meetings or entertainments and charge for admission. (1913 Act 8.7).
- 4.27.26. May let for not exceeding 21 years rights of selling and supplying refreshments. (1913 Act S.8).
- 4.27.27. May permit the erection for the selling of refreshments of buildings and enclose and provide such space and accommodation as necessary for such catering. (1913 Act S.8).
- 4.27.28. May let the right of erecting, permit or license the erection or construction of buildings for use or enjoyment of the public and may authorise charging for the use thereof. (1913 Act S.9).



- 4.27.29. May permit use of the South West Wing for the provision of an hotel. (They are not authorised to carry on the business of hoteliers). (1985 Act 8.6(1)).
- 4.27.30. May let the South West Wing for the purpose of an hotel at the best rent reasonably obtainable for not more than 125 years. (1985 Act.6(2)).
- 4.27.31. May let some or all of that part the Park shown green (roughly the area between CUFOS and the North Wall) for the provision or purpose of a car park at the best rent for not more than 125 years. (1985 Act.6(4)).
- 4.27.32. May charge for parking in that green area only. (1965 Act S.7).
- 4.27.33. May enter into agreement for transfer of functions to a third party. (1985 Act S.8).

#### **Duties and Powers in respect of the Undeveloped Areas**

- 4.28. The areas of the Palace building which are currently undeveloped or under developed are the South East, South West and North East Wings.
- 4.29. The Trustees' powers so far as these three areas were concerned, contained in Section 17(v) of the 1900 Act were altered by the 1985 Act. These three areas were specifically taken out of Section 17(v) when it was amended in the 1985 Act. The powers in relation to these areas were contained in Section 6 of the 1985 Act which has subsequently been amended by the 2004 order.
- 4.30. In summary the trustees now have power, under the 2004 order to lease, with the approval by order of the Charity Commissioners, for a term not exceeding 125 years the whole or part or parts of the palace building and immediate surrounds. They still have the power, under S 6(1 and (2) of the 1985 Act, to let the South West wing for the purpose of a hotel although they cannot themselves carry on the business of hoteliers.

#### **Free Use and Recreation**

- 4.31 In our 1993 report we set out in some detail our advice in relation to the trustees power to charge for admission. To a great extent this has been overtaken by the ruling of the Court of Appeal in the Ski Centre case as referred to in paragraphs 4.16 to 4.18 above.

4.32 Over the years considerable time and energy has been devoted to the meaning of the words "*free use and recreation*". In this context "*free*" could mean unlimited. Similarly it could mean uncharged. The dictionary definition is not helpful because it refers to these as well as other meanings. The 1967 High Court decision is unhelpful in one respect but indicative in another.

(a) The unhelpful respect is the Judge's statement that the

*"rather curious expression 'free use and recreation' ... can be no more than use by way of free recreation and free use by way of recreation ..."*.

(b) The more helpful aspect of the judgment reads as follows -

*"I should mention in passing that the fact that admission fees were chargeable to the 'members of the public would not of itself disqualify this from being a Charity if it is so otherwise, but in fact in truth the primary purpose is free use and recreation."*

4.33. By referring to admission fees and free use, it appears that the judge understood "free" to mean uncharged.

4.34. We are of course aware of two opinions provided in June 1981 by Leonard Bromley QC. In his first dated 1st June 1981 he advised that -

*"In my view the likelihood is that a Court would hold there is no power to charge for public admission to any part of the Palace or Fork save so far as express provision for charging can be found in the 1900 Act and the 1913 Act"*

4.35 Leading Counsel was asked to reconsider this view. On 11th June 1981 advised that he thought -

*"On balance the Court would be like to hold that notwithstanding the inferences from the 1913 Act there was power to charge the public for admission, certainly to the Palace..."*

4.36 That reconsidered view has subsequently been borne out by the decision of the court in the Ski Centre case, namely that there is an implied power to charge for admission



Agenda item:

**Alexandra Palace & Park Board****On 26<sup>th</sup> February 2008**

Report Title: **Charity Indemnification of London Borough of Haringey.**

Report of: **David Loudfoot, General Manager**

**1. Purpose**

- 1.1 To advise the Board of the current treatment of the operating deficit of Alexandra Palace and Park Charitable Trust and their options for the future treatment of this.

**2. Recommendations**

- 2.1 The Trustees consider if they wish to request LBH to discharge the trust from the debt relating to the period 1988/89 up to 1990/1991 in respect of which it may be entitled to seek indemnification but which it wrote out of its books in 2005/6.
- 2.2 The Trustees consider if they wish to request LBH to discharge the trust from the debt relating to the period 1991/2-1994/5 in respect of which it is entitled to indemnification but which it also wrote out of its books in 2005/6
- 2.3 The Trustees consider if they wish to request LBH to discharge the trust from the debt relating to the period 1995/6 to 2007/8 in respect of which it is entitled in principle to indemnification but which the Council wrote out of its books In 2005/6.
- 2.4 The Trustees consider if they wish to request LBH to discharge annually any future accumulation of debt from the operating deficits of the Charity.

Report Authorised by: **David Loudfoot, General Manager**.....

Contact Officer: **David Loudfoot, General Manager, Alexandra Palace & Park, Alexandra Palace Way, Wood Green N22 7AY Tel No. 020 8365 2121**

**3. Executive Summary**

- 3.1 This paper examines the position in relation to monies expended by the London Borough of Haringey out of its corporate assets on behalf of the Charity and shown in the Charity's accounts as liabilities due to the Council but which have been written out of the Council's accounts. It also examines the position as regards the Council continuing to fund the Charity's ongoing annual deficits. It invites the Trustees' guidance as to the approach they wish to be taken toward the Council..

**4. Reasons for any change in policy or for new policy development (if applicable)**

4.1 N/A

**5. Local Government (Access to Information) Act 1985**

5.1 In drafting this report, reference has been made to the following documents:  
 Correspondence between Treasury solicitor and LBH between 1 May 1996 and 27<sup>th</sup> September 2006  
 District auditor public interest report dated September 1999  
 Accounts of Alexandra Palace Charitable Trust 2007/2008

**6. Report**

- 6.1 The Trusteeship of Alexandra Palace was transferred to the London Borough of Haringey (LBH) on the 1<sup>st</sup> January 1980
- 6.2 The Palace was devastated by a fire in the summer of 1980 and in the following rebuilding of the palace, costs overran and Charity funds were exhausted in 1987/88.
- 6.3 The Council expended its corporate funds on providing capital for the refurbishment and also revenue support to meet the continuing annual revenue deficits of the trust.
- 6.4 During the early 1980's the LBH tried to persuade the Attorney General that it had behaved reasonably and properly both as regards meeting capital expenditure and funding the annual ongoing revenue deficits. The position was eventually agreed that certain sums could be recovered from the assets of the Charity if and when its financial future was secured and parts of the historic and ongoing annual revenue deficits could similarly be recovered. The definitive position was set out in correspondence between LBH and the Attorney General in the period May 1996 to September 1996 and the public interest report of the District Auditor dated 1 September 1999. This was at a time when the Trustees proposed to grant a long lease from the capital proceeds of which they would repay monies to LBH.
- 6.5 The Council met on 30<sup>th</sup> May 1996 and agreed that *"without admitting that any part of the accumulated deficits were other than reasonably and properly incurred on behalf of the Charity, advise the AP&P board that the Council will not pursue its claim for indemnification beyond the revenue deficits plus interest 1987/88 onwards"*. This effectively resolved the issue of the capital debt.
- 6.6 The Council also decided that *"the Council agreed in principle to continue to funding, subject to its right to full indemnification, for annual deficits on APP&P until the Palace becomes the responsibility of the preferred developer. In addition such funding is subject to the Councils satisfaction as to the progress made on the development proposals."*
- 6.7 Thus, by Sept 1996 the agreed position between the Council and the Attorney General was that the Council would write off the capital debt as it was not

recoverable from the Charity but would still seek recovery of the revenue debt for the operation of the Charity. The entitlement of the Council to seek recovery was subject to the future of the Charity being secured and it being in a position to make payment.

- 6.8 These matters were reported to the Board in the report of the trust solicitor on November 1996, this report contained reference to all the background correspondence.
- 6.9 The Charity produces a budget estimate each year for consideration and approval by the Board, all such budgets produced FY1991/92 and onwards have shown a deficit budget requirement.
- 6.10 The accounts of the Charity have been independently audited, in accordance with the provision of the Charities Act 1993 and regulations thereunder since FY1997/98.
- 6.11 The accounts from 1994/95 onwards show a debt due by way of a provision for the years 1998-1991 and an indemnification to LBH in respect of 1991 onwards. This is in line with the advice from the correspondence with the treasury solicitor.

6.12 These are broken down into:

- (a) provision for 1988/99-1990/91 £3,396,000.

This figure is comprised of £755,000 provided by LBH to the Charity and accumulated interest of £2,641,000

This is in respect of the operational deficits from 1988-1991 and is still in dispute.

The trust annual report indicates at note 18 on page 29 of the agreed Accounts for 2007/8 that the Council "may be entitled to this".

- (b) provision for 1991/2-1994/5 £14,886,000

This figure is comprised of £5,005,000 provided by LBH for operational deficit and accumulated interest of £9,881,000

- (c) Indemnification for 1995/6 - 2007/8 £19,082,000

This figure is comprised of £14,228,000 provided by LBH for operational deficits and accumulated interest (up to 31/3/2005) of £4,854,000.

The treasury solicitor has agreed in correspondence that in respect of the indemnifications at b & c above that "the Council is entitled to this"

- 6.13 From 2005/6 onwards the Council has ceased to charge interest on this balance as it has been written out of the Council's accounts.

- 6.14 At the Trustees meeting of the 6<sup>th</sup> January 2009 the Trustees requested that a paper be submitted on the subject of the 'debt' and setting out the Trustees' options.
- 6.15 The current position in the statutory accounts is that the provision is shown as a liability to the Council. In the 2007/8 accounts, the total liability is £37,363,918. It is clear that the treatment of this item has been agreed by the Attorney General, district auditor and the Charity's auditors. It is equally clear that unless the Council formally discharges the debt the Trustees must continue to show this as a liability in their accounts.
- 6.16 In answers to questions relating to the 2007/8 accounts, the General Manager stated that his understanding of the position of the Council was that "*it wrote the amount out of its books in 2005/6 and it no longer appears on its balance sheet, however, the Council has not formally discharged the debt and whilst there are no particular conditions surrounding any potential repayment, at present it would only be if circumstances allowed*".
- 6.17 The Trustees options are that they may continue to accept the current treatment as this has been substantiated as correct or if they wish, formally request that the Council release the Charity from any liability to indemnify the Council.
- 6.18 It would be a matter for the Council, upon receipt of any request from the Trustees for release, to make its decision.
- 6.19 Further, the Trustees should note that if the Council were to agree to this discharge, it would need a further agreement to discharge any further annual deficit balance otherwise the trust will again begin to have a mounting deficit showing on the balance sheet.

## **7. Consultation**

7.1 N/A

## **8. Recommendations**

- 8.1 The Trustees consider if they wish to request LBH to discharge the trust from the debt relating to the period 1988/89 up to 1990/1991 in respect of which it may be entitled to seek indemnification but which it wrote out of its books in 2005/6.
- 8.2 The Trustees consider if they wish to request LBH to discharge the trust from the debt relating to the period 1991/2-1994/5 in respect of which it is entitled to indemnification but which it also wrote out of its books in 2005/6
- 8.3 The Trustees consider if they wish to request LBH to discharge the trust from the debt relating to the period 1995/6 to 2007/8 in respect of which it is entitled in principle to indemnification but which the Council wrote out of its books In 2005/6.

- 8.4 The Trustees consider if they wish to request LBH to discharge annually any future accumulation of debt from the operating deficits of the Charity.

**9. Legal Implications**

- 9.1 The Trust's Solicitor has been consulted and has advised on the drafting of this report.
- 9.2 A copy of this report has been provided to the LBH head of Legal Services.

**10. Financial Implications**

- 10.1 The discharge of the debt would have a significant effect on the trust deficit accounts.
- 10.2 The Council is not currently pursuing the trust for payment nor would it seem likely to unless the trust somehow came into funds sufficient to secure the future deficit free operation of the Charity.
- 10.3 A copy of this report has been supplied to the LBH CFO and his comments are attached at appendix 4

**11. Use of Appendices/Tables/Photographs**

- 11.1 Copy of TS correspondence
- 11.2 Copy of District Audit public interest report
- 11.3 .Extract pages from APPCT accounts 2007/8 showing the note to accounts.
- 11.4 Comments of LBH CFO



## THE TREASURY SOLICITOR

Queen Anne's Chambers, 28 Broadway, London SV

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Mr Gurbux Singh  
Chief Executive  
London Borough of Haringey  
Civic Centre  
Wood Green  
LONDON N22 4LE

Direct Line 0171 210 3332

Please quote:

L90/6162/CJR/L8

Your reference:

Date:

1st May 1996

Dear Mr Singh

### ALEXANDRA PARK AND PALACE

I am now in a position to give a detailed response to your letter of 19th February, which has been considered by the Attorney General with the advice of leading counsel.

Before turning to the issue of debt liability, I must mention two important preliminary points:

1. Mr Pascho did not say on 16th February 1995 (as you suggest in your letter) that the settlement of the debt liability could relatively easily be agreed. What he did say was that there was unlikely to be much dispute about the previous year's deficit (i.e. 1993-4), where the Council's budget had been shown in advance to the Charity Commission and the result for the year had been close to the budget.
2. Mr Pascho also said at the same meeting that if the Council wished to propose a settlement of the debt liability, they should let him have a suggested figure as soon as possible. It is a pity that this was not done, since it would have saved time if your present proposals had been put forward earlier.

### The revenue deficit

Your suggestion that the charity should bear the whole of the operating deficit is not acceptable. To explain why, I will break the deficit down into different chronological periods.

#### 1. Period up to 31st March 1987

Touche Ross's report shows £5.1 million of "operating deficit"



accruing up to 31st March 1987. However the Council did not provide any funding for the charity during this period. All development expenditure and running costs were paid out of the GLC's dowry of £8.5 million, the insurance money received after the fire, and the investment income from these two sums. The Council only started making payments from their own money when these other sources ran out, and it is only after that date that any question of reimbursement by the charity arises.

Once the Council started to make payments in 1987/8, one has to identify what they were paying for. The answer can only be the revenue and capital expenditure incurred from that date onwards. To suggest that they were somehow paying for a notional pre-existing deficit bears no relation to reality. All those previous running costs had already been paid for in earlier years. That is clear from the accounts for the relevant years, and it is what one would expect to have happened. The Council knew at the outset that the total funds available (including the insurance proceeds and the dowry) would have to pay for any running costs during the period of development. Thus, for example:

- (1) a report to the Alexandra Palace and Park Committee in November 1981 showed how the dowry would be used to pay (among other things) the running expenses of the Park during the period of development at a rate of £400,000 p.a. for four years; and
- (2) paragraph 7.1.5 of the Inspector's Report (following the planning inquiry) said that £3 million should be set aside from the total sums available to allow for possible revenue shortfall during the "build up" period.

No claim for the alleged revenue deficit in the period to 31st March 1987 can therefore be accepted.

## 2. Year ended 31st March 1988

The revenue deficit claimed for this year (according to the schedule attached to Mr Pirrie's letter of 23rd November 1995) is about £1.5 million. This was the year in which the charity's funds ran out and it became dependent on the Council for further funding. According to its accounts, the charity had a surplus of £13.57 million at the beginning of the year and received investment income during the year of £1.46 million. At the end of the year it had a total deficit of £3.1 million.

There is no reason why the whole operating deficit of £1.5 million in that year should be treated as having been funded by the Council, rather than the bulk of it coming from the charity's own money. In the absence of further evidence, it would be reasonable to treat no more than one sixth of the operating deficit as having been funded by the Council; ie

about £250,000. That reflects the proportion which the Council's total funding for this year bore to the charity's own resources. As to whether the Council have yet shown that this operating expenditure was properly incurred, the position is similar to 1988/9 and 1989/90, which I deal with next.

3. 1988/9 and 1989/90

The revenue deficit claimed for these two years totals £827,000. This was a period while the development was still being completed and before either the Charity Commission or the Attorney General had become involved. It is impossible to treat the revenue deficit in this period in isolation from the capital overspend. The development was taking much longer to complete and was costing far more than expected. One cannot tell whether there would still have been any revenue deficit to be funded by the Council if the development had been carried out properly. This difficulty in trying to treat the revenue and capital deficits in isolation during the period of development was referred to in Mr Pascho's letter of 8th July 1993.

The Council have therefore not yet made out a sufficient case for reimbursement of revenue expenditure in these years. They will need to be considered in conjunction with the capital claim.

4. 1990/1

The analysis sent on 23rd November 1995 shows an operating deficit of £44,000 in 1990/1. However, we are concerned only with the extent to which the Council have spent money and provided funds on the charity's behalf. To calculate that amount, one needs to make adjustments to reflect changes in working capital balances, as Touche Ross did in Appendix 9 to their Report. Those adjusted figures were then used by Touche Ross to calculate the amount of interest payable, and I believe that the Council's calculations of interest in other years have also used similarly adjusted figures.

In 1990/1 these adjustments change the deficit of £44,000 into a surplus of £39,000, so no question of reimbursing the Council arises.

5. 1991/2 - 1994/5

It is accepted that the Council are entitled to an indemnity in respect of the revenue deficit in these four years. The figures in the November letter will need to be adjusted to reflect changes in working capital balances, as explained above, although the resulting total is unlikely to differ very greatly from the total of £4.7 million in the November letter.

I suggest that you should provide adjusted figures as soon as possible, with sufficient explanation to enable us to understand the adjustments. I would expect that the figures can then be quickly agreed. Could you please also confirm that the 1995 accounts have now been audited. If they have not, any final agreement for that year will have to await the result of the audit.

### Interest

It is accepted that the Council are entitled to recover the actual borrowing costs of expenditure properly incurred on the charity's behalf. However the method adopted by Touche Ross for apportioning interest between capital and operating costs is not acceptable, and Mr Pirrie agreed at our meeting on 14th February 1996 that it was difficult to defend. The interest should be calculated on the average amount of the accrued revenue deficit in each year.

The rate of interest can be taken (as it was by Touche Ross) as the average of the Council pool rate in the year. I suggest that you should submit a computation of interest to date on the revenue deficits for the four years 1991/2 - 1994/5. Would you please also provide evidence to confirm the interest rate taken for each year; for example a certificate or letter from the auditor. I would again expect that these figures can be quickly agreed.

### Capital deficit

Your suggestion that the charity should bear half of the capital deficit is quite unacceptable. As you know, the Attorney General's position is that the sheer size of the overspend, coupled with the severe criticisms in the PMI Report, create a strong prima facie case that the expenditure was not reasonably and properly incurred. The Council have so far done nothing to dispel that inference. You say in your letter of 19th February that "a great deal of supporting evidence was provided to the Department of the Environment before the Ministerial Meeting". I asked you on 29th February to send me copies of this material, but nothing has so far been supplied. If the material includes any additional evidence which you would like us to consider, please let me have it as soon as possible.

On page 5 of your letter, you set out eleven numbered points, which I shall take in turn:

1. It is irrelevant that the PMI Report did not reveal any misappropriation. The question is not whether the expenditure was dishonest, but whether it was reasonably and properly incurred.
2. It may be true that the nature of the building and the

project were such that it was difficult to predict in advance the total costs to be incurred. But that merely emphasises the riskiness of the entire venture. The Council's financial projections were subject to fierce criticism by objectors at the planning inquiry in 1982; see for example paragraphs 7.2.4-6 of the Inspector's Report. Although the Inspector did not make any findings about the financial issues because he decided that was unnecessary to his planning decision, he did conclude (in paragraph 17.49) that the objectors' analysis had posed a number of interesting questions and raised doubts about financial viability of the project.

- 3 & 4. Your suggestion that the design team had the necessary experience is explicitly contradicted by the PMI Report. They said (in section 3.2), "a project of this nature and complexity required a high degree of professional expertise...In our opinion, apart from Dr Smith the APDT did not include the expertise required for this type of project and should not have been undertaken "in house".

You also refer to the team's previous experience on the Wood Green Shopping City project. However, I note that one of the points raised by the objectors in 1981/2 was that Wood Green was not an encouraging precedent. Costs were said to have been much higher than predicted and rental income much lower, while other expected benefits for the local community (such as a traffic-free high road, a rail link and sports facilities) never materialised at all.

5. Delays in construction work may indeed have led to increased costs. This again emphasises the risk involved in proceeding with a scheme where the financial margins were very tight from the outset and where (according to section 9 of the PMI Report) even by April 1984 the designs were "only in outline form and lacking in any substance or detail".
6. The same answer applies to your argument about the difficulty of stopping the work part of the way through. It is difficult to stop any building project mid-stream. That is why such projects have to be very carefully appraised and costed before they are undertaken at all. Where the property belongs to trustees, that is even more vital.
7. The forecasts of revenue allowed only a small margin, and they too had been criticised by objectors from the outset as being over-optimistic. The Inspector accepted (at paragraph 16.104) that a 10% increase in costs coupled with a 10% fall in revenue would lead to the Palace and Park running at an overall loss.

8. The recession probably did affect the exhibition industry and contribute to the large operating losses in the past few years. The Council is entitled to claim an indemnity for revenue expenditure in that period, as explained above. But this did not affect the capital overspend.
9. If, as you say, the Council embarked on the development without having had sufficient opportunity to understand the complexity of running the Palace and Park, that again only emphasises the risk which they were taking.
10. The interim measures taken before the main building project were plainly not able to generate a surplus. But they should at least have emphasised the need for extreme care in projecting future costs. Paragraph 2.4.8 of the Inspector's Report describes how the temporary structure known as "the Bubble" had overrun its costs estimate by at least 50%.
11. Your point about the last four financial years goes only to the revenue deficit, which I have already dealt with.

#### Resolution of the disputed liability

On paper, the amount of deficit still in dispute remains enormous. But you recognised at our meeting on 14th February 1996 that a part of the deficit would have to be written off by the Council in any event, even if (as you contend) the charity is theoretically liable to bear it. Indeed that has been recognised by the Council for some time. A briefing note to the majority group on 25th March 1993 said that the charity was "very unlikely to reach a position where it can repay any of the [capital deficit]".

Before the charity can be in a position to make any reimbursement, it must of course be sure that its future running costs are fully and securely provided for, either by future rental income from a developer who takes a lease of the Palace or by setting aside an appropriate part of any lease premium or by a combination of the two. When that has been done, the charity will need to provide for (a) reimbursement of the revenue deficit for the four years from 1991/2 together with interest, (b) any continuing revenue deficit and interest which the Council can show that they have funded reasonably and properly in 1995/6, and (c) any further revenue deficits which may continue until payments are received from a developer. Any additional liability of the charity for the past deficit will only be a live issue to the extent that a surplus may be expected after those payments and provisions.

You suggest in your letter (as Option C) that you might then be able to carry out further analysis in-house, including "looking at discrete areas of capital expenditure which could

easily and speedily be agreed". We will certainly consider any suggestions which you may have for identifying such discrete areas and deal with them as quickly as possible.

We would sound only one note of caution. Our concerns about the capital expenditure go to the very root of the development project which was undertaken. They include whether the project was appropriate for the charity at all, having regard to its risks and uncertainties; whether the original building contract was appropriate; and whether it was appropriate to use an in-house team. Unless the Council are able to go some way towards satisfying the Attorney General on these fundamental issues, it may be hard to identify particular areas of capital overspend which can be shown to have been reasonably incurred. If it does become necessary to resolve these fundamental issues, I do not suggest that the Council should embark at once on a forensic accounting exercise. The best starting-point would be for the Council to produce one or more papers, explaining in some detail their case on those issues, and producing the relevant contemporary documents. This is likely to provide the quickest and most effective start either to reaching agreement or to identifying points which will have to be investigated further.

#### Decisions in relation to the proposed development

On 30th October 1995 a joint meeting of the Alexandra Palace and Park Board and the Policy Committee of the Council agreed that you, as Chief Executive, should "engage the necessary resources to complete the project" (i.e. the proposed new development) and that details should be approved by a members' steering committee. The effect of this resolution seems to have been to deprive the Board of most of its decision-making functions for any new development.

This is contrary to advice which Mr Elias QC gave the Council in November 1990. He said that in circumstances where there was a potential conflict of interest between the Council and the charity, all decisions for the charity should be taken by the Board and all decisions of the Council qua Council should be taken by a separate committee. Could you please explain why that advice has apparently been departed from and what steps are now being taken to ensure that the Board will be able to consider the proposals fully and with a single-minded view to the interests of the charity. Could you please also let me have the minutes of all meetings of the Board since last September, let me know when the Board will be considering the short-listed alternative proposals, and what further meetings of the Board are now planned.

Mr Elias also advised that where there was a potential conflict of interest it was essential that separate advice was given to each interest. It seems surprising that the Board have apparently not yet sought advice on the proposed development, and I understand that they decided on 26th March

to put their legal work out to tender. Could you please tell me whether new solicitors have yet been appointed, and confirm that the new solicitors (whether Malkins or another firm) will be instructed at once to advise the Board on the present development proposals.

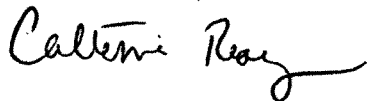
It is also vital that the Advisory Committee have a proper opportunity to fulfil their statutory functions under the 1985 Act. Their role (set out in paragraph 19 of Schedule 1) is to consider and advise the trustees on various matters, which specifically include general policy relating to activities permitted in the Park and Palace and any proposals requiring planning permission. I am concerned that a meeting of the Committee on 17th January 1996 was inquorate because insufficient councillor members attended. Will you please supply copies of minutes of any meetings of the Advisory Committee since last September, and let me know what further meetings are currently scheduled.

The Council as trustee

I note that the Board have been advised by Mr Robert Ham QC that the trustees of the charity are all the individual councillors as an unincorporated body, rather than the municipal corporation itself. It would be helpful if you could let me know whether the Council have sought further advice in the light of Mr Ham's Opinion and what is now the Council's own position on the matter.

A press article in the Daily Telegraph (7th March 1996) referred to the concern of individual councillors that, in the light of Mr Ham's advice, they might be personally liable to the charity. However, while the Attorney General can give no assurance that questions of personal liability will never arise, his concern at present is simply with how much of the deficit the charity should properly bear.

Yours sincerely



CATHERINE REAY  
for The Treasury Solicitor

**Corporate Services**

Alexandra House, 10 Station Road, Wood Green, London, N22 4TR  
Tel 0181 975 9700 Fax: 0181 862 3815  
Minicom 0181 862 3818

Your ref: L90/6162/CJR/LS  
Our ref: DOCS/JP/DS  
This matter is being dealt with  
by

13th May 1996

Ms C Reay  
The Treasury Solicitor  
Queen Anne's Chambers  
28 Broadway  
London  
SW1H 9JS

Dear Ms Reay

**Alexandra Park and Palace**

Thank you for your letter of 1st May 1996 to the Chief Executive giving a detailed response to his proposals for resolving liability for the accumulated deficits in connection with Alexandra Park and Palace.

It is our intention to make a fuller response to your letter at a later date but at this time I am providing the information which you required.

The quantification of the revenue deficits 1991/92 on for which the Council is entitled to indemnification is attached at Appendix 1.

The quantification of the revenue deficit has been extrapolated to the 31st March 1999 as that is the calendar year when a head lease premium will become receivable under two of the development proposals currently under consideration.

The accounts for 1994/95 have been audited and the figures as presented reflect any changes brought about by that audit. There will be a delay in the formal conclusion of the audit because of an objection to the accounts in respect of the liability to the Council.

The figures in the November letter have been adjusted to reflect changes in working capital balances. The adjustments are in respect of changes in the current assets and liabilities of the Trust which affect the requirement for cash to be advanced. The calculation is illustrated below for 1994/95:



ALEXANDRA PALACE			
ANALYSIS OF MOVEMENT IN WORKING CAPITAL 1994/95			
	31 MARCH 1994	31 MARCH 1995	MOVEMENT
	£000	£000	£000
DEBTORS	200	124	-
PAYMENTS IN ADVANCE	161	234	-
STOCK	114	129	-
PETTY CASH	9	16	-
CREDITORS	- 288	- 518	- 23
INCOME IN ADVANCE	- 228	- 298	- 7
OTHER BALANCES	- 79	- 54	- 2
TOTAL	- 111	- 367	- 256

The District Auditor has agreed the interest rates used in the calculations and his letter of confirmation is attached at Appendix 2.

I enclose, as requested, minutes of the Joint Meeting of Alexandra Palace and Park Board and Policy and Resources Committee on the 30th October 1995, and minutes of all meetings of the undermentioned bodies since September 1995:-

Alexandra Palace and Park Board

Alexandra Palace and Park Advisory Committee

Alexandra Palace and Park Development Steering Group

Meetings of the Advisory Committee (8th May 1996) and the Development Steering Group (10th May 1996) received presentations from the three shortlisted developers. Minutes of those meetings will be forwarded as soon as they are available. Separate meetings of the Policy and Resources Committee and the Board are planned for the 20th May 1996 and a special meeting of the Council is scheduled for 23rd May 1996.

The Chair of the Advisory Committee is invited to all meetings of the Development Steering Group partially in order that he is in a position to convene meetings of the Advisory Committee should he consider it necessary.

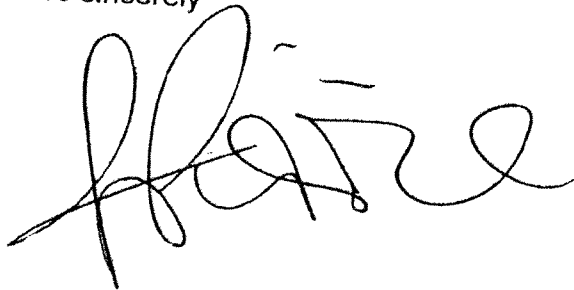
The board decision to put their legal work out to tender was made in the knowledge that Malkins have limited experience in contract matters and suitable expertise would

be required once a preferred developer was selected. The selection process for legal advice is following EU procedures due to the cost involved and no appointment has been made as yet.

With regards to the Council as trustee a further opinion has been obtained from Patrick Elias and I enclose a copy of that opinion together with a draft covering report of the Borough Solicitor for presentation to the meeting of the Council on the 23rd May 1996. You will observe that Mr Elias remains of the opinion that the Municipal Corporation is the Trustee rather than the individual Councillors.

For completeness I am sending you a copy of my letter to the Department of the Environment of the 5th October 1993. As you have been advised there are no contents of which you are unaware. The other information sent to the Department of the Environment was budgets and business plans for the various periods since 1993.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Elias', written in a cursive style.

DIRECTOR OF CORPORATE SERVICES

## APPENDIX 1

Revenue Deficits 1991/92 on

The quantification of the revenue deficits for which the Council is entitled to indemnification is as under:-

Year	Deficit £'000	Change in Working Capital £'000	Total £'000	Interest £'000	Cumulative Total £'000
1991/92	903	177	1,080	57	1,137
1992/93	1,510	244	1,754	213	3,104
1993/94	1,270	135	1,405	387	4,896
1994/95	1,022	(-)256	766	538	6,200
<b>Sub-Total</b>			5,005	1,195	
1995/96 (Expected Out-turn)	1,181		1,181	686	8,067
1996/97 (Budget)	595		595	845	9,507
			6,781	2,726	
1997/98 (Possible Deficit)	1,000		1,000	1,011	11,518
1998/99 (Possible Deficit)	1,000		1,000	1,214	13,732
			8,781	4,951	=====



rec'd 16/5/96

## THE TREASURY SOLICITOR

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The Director of  
Corporate Services  
Haringey Council  
Alexandra House  
10 Station Road, Wood Green  
LONDON N22 4TR

Please quote: L90/6162/CJR/L8

Your reference: DOCS/JP/DS

Date: 16 May 1996

By Post and Fax

Dear Sir

RE: ALEXANDRA PARK AND PALACE

I write further to your letter of yesterday's date and mine also of that date seeking further information concerning the letter that Mr Andrews was supposed to have written to me.

I now understand from you that Mr Andrews has not in fact written, although he may intend to do so.

I can only state at present that I have no reason to depart from the position hitherto expressed in my letter of 1 May, but that I must, of course, reserve the right to give full consideration to anything that Mr Andrews, if he chooses to write, has to say.

Yours faithfully

for the Treasury Solicitor

# HARINGEY COUNCIL

cc leader  
J Pirrie  
K Holdal

1(a)

**Chief Executive**  
Civic Centre, Wood Green, London N22 4LE  
Tel 0181 975 9700 Fax 0181 862 2906

cc Harris, Malkin

CE/GS/eml

Ms C Reay  
The Treasury Solicitor  
Queen Anne's Chambers  
28 Broadway  
London  
SW1H 9JS

31 July 1996

Dear Ms Reay

## Alexandra Palace and Park

Further to the interim reply to your letter of 1st May 1996 from the Director of Corporate Services I now set out a detailed response to the matters raised.

First of all may I say that I was surprised by your opening remarks. In your previous correspondence you had stated that you did not have a record of Mr Pascho's attendance at the meeting on 16th February 1995. The position as noted by the Haringey officers and stated in your letter of 19th February 1996 was cleared and confirmed by senior government officials at the Department of the Environment and the Charity Commission. I find it even more surprising that you now quote a version of events not entirely in line with the records of the other four persons present.

Leaving that aside I would now like to turn to the substantive elements of your letter.

First I wish to make some general comments to formally respond to those included in your letter. Secondly I outline the Council's action on the capital element of the deficit and the logic underpinning it's decisions. Finally I lay out the arguments for seeking agreement to indemnification for further revenue deficits.

### 1. General Comments.

- a) You request a letter of confirmation from the District Auditor of the rates of interest applied to the operating deficits. This statement was supplied by the Director of Corporate Services on 13 May 1996. I trust that you find the content acceptable and this element may now be formally agreed.

- b) The creation of a Member Steering Committee did not deprive the Board of any powers in relation to its decision-making functions for any new development. As you rightly state this body was set up by a joint meeting of both Policy and Resources Committee and the Alexandra Palace and Park Board with both considering and recording their voting intentions separately. In fact the Steering Group was a working party of both bodies with Members having delegated authority from their respective committees. The primary decision on development proposals were made by the relevant committees independently of each other. I can further confirm the Member Steering Group has not met since the completion of the selection process for the preferred developer and is in the process of being disbanded.
- c) On the question of independent legal advice to the Trust I would confirm that the Board has reconsidered its previous decision. It has now resolved to retain Malkins for all the day-to-day work of the Charity whilst seeking competitive quotations from legal practises to undertake the work associated with the leasing arrangements for the Palace. A specification is in the process of being compiled. Malkins will of course be invited to respond to the brief.
- d) In dealing with the revenue deficit you state that the Council knew from the outset that the total funds available would have to pay for any running costs during the period of reconstruction and quote the following :
- (i) a report to Alexandra Palace and Park Committee in November 1981 showed how the dowry would be used to pay (among other things) the running expenses of the Park during the period of development at a rate of £400,000p.a. for four years; and
  - (ii) paragraph 7.1.5 of the Inspectors report (following the planning inquiry) said that £3million should be set aside from the total sums available to allow for possible revenue shortfall during the "build up" period.

I am afraid you are mistaken in your interpretation on both of these points.

The Inspectors report consists of detailed evidence from a number of sources including evidence from the Council. The Trust were anticipating a surplus of £720,000 from the operation of the Pavilion against which £400,000 would be offset for the running of the Park. This is laid out in paragraph 7.1.3 of the Inspectors report. In my letter of 23rd November 1995 to the Charity Commission, a copy of which was forwarded to you, I set out the actual position and you will note that the only year in which a surplus was generated was 1986/87 in the sum of £76,000. In each of the other years when construction was carried out there was an operating deficit. The "build up" period for which the Council was prudently intending to set aside £3million was for the four years after completion of the construction. This is further explained in paragraph 7.1.12 of the Inspectors report. I will return to the matter of the £3.0m later.

- e) In relation to the capital deficit most of your quotations taken from the Inspectors report were not statements from the Inspector but merely ill informed or biased opinions from various objectors to any redevelopment of Alexandra Palace. As an example you quote that "other expected benefits - from the Wood Green Shopping City project - for the local community (such as a traffic free High Road, a rail link and sports facilities) never materialised at all". That fault did not lie with the Development Team but with the Department of Transport changing policy and not finalising the necessary capital expenditure approvals. In fact the Inspectors report, throughout the summary at section 17, contains a number of references to the type of language used by objectors primarily to influence the Inspector against the development proposals. It is crucial to separate the comments made by objectors and those made by the Inspector for any objective conclusion to be drawn.
- f) I was also amazed to learn, at this late stage, of the Attorney General's concern as to whether the refurbishment project following the 1980 fire was appropriate for the Charity at all. The Trustees took advice from leading counsel, Mr Leonard Bromley, who stated that the Trustees had an obligation to substantially reinstate the fire damaged property. On the basis of that advice the Trustees commissioned the works of reconstruction. Further, the Inspectors report on the planning inquiry was presented to the Attorney General's colleague, the Secretary of State for the Environment on 15th March 1983. It is quite clear from that report that the Trustees were intending to carry out major reconstruction to the Palace and for the development proposals to be prepared by an in-house team. Finally, on this point, the Attorney General personally intervened in the passage of the Alexandra Park and Palace Bill 1985 through the House of Commons. The Attorney General was therefore, at that time, fully aware of the Trustees intention to refurbish the Palace and did not raise any concerns.
- g) I would welcome some justification of your statement that "Before the Charity can be in a position to make any reimbursement, it must of course be sure that its future running costs are fully and securely provided for." You agree that the Council is entitled to indemnification of certain of the revenue deficits plus interest. Surely any debtors first duty is to repay its creditors from the available assets. I fail to understand why you believe that the Trust should not be subject to this basic requirement.

## 2. Capital element of the deficit.

- a) I advised you on 14th June 1996 that the Alexandra Palace and Park Board have selected a preferred developer for carrying out the redevelopment of the Palace and Park. The proposals of the developer are to create a multi-activity leisure facility consistent with the objects of the Trust. In return for a 125 year lease the developers have offered the Trustees £11.775m to be paid when all the necessary planning and legal consents have been achieved. However it should be noted that £2m of the premium relates to a site for the Purcell School of Music within the Park and is highly unlikely that planning consent would be obtainable for such a project.

- b) The Council, recognising the limits of the potential capital realisable from the Trusts assets, met to consider its position on 30 May 1996. The Council agreed the recommendation of the Policy and Resources Committee that " without admitting that any part of the accumulated deficits were other than reasonably and properly incurred on behalf of the Charity, advise the Alexandra Palace and Park Board that the Council will not pursue its claim for indemnification beyond the revenue deficits plus interest 1987/88 onwards." The Council also agreed in principle to continue to provide funding, subject to its right to full indemnification, for annual operating deficits on Alexandra Palace and Park until the Palace becomes the responsibility of the preferred developer. In addition such funding is subject to the Councils satisfaction as to the progress made on the development proposals. I would add that in the debate at Council, none of the Board Members took part in either the discussion or the vote on the resolution.

The result of this resolution of the Council clearly confines the area of indemnification to the revenue operating deficits.

### **3. Further indemnification for operating deficits.**

- a) The capital and revenue deficits are not, as you imply, so entwined that they are incapable of separation. The Trustees had received two reports from the Development Officer, one in the summer of 1986, the other in the summer of 1987, stating that the project if continued would overspend the resources available. In the report presented to the Alexandra Palace and Park Committee on 3rd August 1987 the overall deficit including the projected operational deficits was estimated to be £11.7million. The Trustees continued with the rebuilding project and also to finance the annual revenue deficit on the advice received from the then General Manager. The forecast was that annual surpluses in excess of £2million would be generated from subsequent income which the Trustees were further advised would be more than sufficient to repay the accrued deficit.

At the point the Trustees were aware that all of the available resources were required to meet existing commitments it was not feasible to direct the previously earmarked funding of £3.0m as outlined earlier in this letter to cover operating costs. To do otherwise would have meant the Trustees making a conscious decision to leave the Palace in a part built state without any potential for generating income to the Trust over a substantial but undefinable period. It would have been incomprehensible to consider this approach as acting in the best interest of the Trust. Clearly once all the available capital resources had been directed toward refurbishment the Trust was left seeking support for its operating deficit. In the circumstances this deficit can be clearly identified and dealt with in isolation from the capital.



- b) The Council is therefore seeking indemnification for the revenue deficits from 1st April 1987 as they had been aware since the summer of 1986 that all of the available resources would be needed for capital works. Interest however was only incurred from the time that the available cash was expended as identified in the interim report of Touche Ross.

In dealing with these operating deficits the principles attached to the decisions are no different to those adopted for 1991/92 onwards and can be dealt with accordingly.

- c) You have already agreed that the Council is entitled to indemnification of the operational deficits from 1st April 1991 which have been quantified as £6.2m at 31st March 1995. The operational deficits, plus interest have been projected to rise to £11.518m at 31st March 1998 and £13.732m at 31st March 1999 as it is not anticipated that the premium from the developer will be received until about that time. The details underlying the projection are attached at Appendix 1.

The Council is seeking agreement to its rights to further indemnification to the operating deficits from 1st April 1987 as shown below:

	£M
1987/88	1.528
1988/89	0.596
1989/90	0.231
1990/91	0.044
	2.399

- d) To conclude, the decision of the Council not to pursue its claim for indemnification of the capital deficit effectively resolves the question of the liability of the Trust for all capital deficits. All that remains is formal agreement to the Council's claim for indemnification prior to 1991/92 using the same principles adopted for later years.

In summary therefore I am seeking :

- a) your agreement to the Council's right of indemnification to the operational deficits, plus interest, from 1st April 1987;
- b) you note the Council is no longer pursuing its claim for indemnification of the capital deficits together with the reasons for its decision;
- c) your agreement that the Trustees are no longer restricted from entering into irrevocable commitments;

- d) you advise the Charity Commissioners that they can proceed with the scheme to extend the powers of the Trustees.

I should be obliged if you would bring this letter to the attention of the Attorney General.

Whilst appreciating the delay in responding to your letter, I believe that both the Trust and the Council has achieved much in the intervening period. Significantly, the issue of the capital deficit is all but resolved and the Trust has appointed it's preferred developer. The developer is anxious to have a degree of clarity around the parliamentary scheme and is already committing financial resources on preparatory work. It cannot be in the best interests of the Trust to allow matters to drag on at a time when all of the components are in place to resolve the issues. It would be helpful if you could deal with the outstanding matters expeditiously and assist in achieving a speedy conclusion.

As always if there are any points you do not understand or wish further clarification on I and my colleagues are willing to provide the assistance necessary or indeed join with you in conference with Counsel.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Gurbux Singh', written over a horizontal line.

**Gurbux Singh**  
**CHIEF EXECUTIVE**

Revenue Deficits 1991/92 on

The quantification of the revenue deficits for which the Council is entitled to indemnification is as under:

Year	Deficit £'000	Change in Working Capital £'000	Total £'000	Interest £'000	Cumulative Total £'000
1991/92	903	177	1080	57	1137
1992/93	1510	244	1754	213	3104
1993/94	1270	135	1405	387	4896
1994/95	1022	(-) 256	766	538	6200
<b>Sub-Total</b>			<b>5005</b>	<b>1195</b>	
1995/96 (Expected Out- turn)	1181		1181	686	8067
1996/97 (Budget)	595		595	845	9507
			<b>6781</b>	<b>2726</b>	
1997/98 (Possible Deficit)	1000		1000	1011	11518
1998/99 (Possible Deficit)	1000		1000	1214	13732
			<b>8781</b>	<b>4951</b>	

5/8

HARINGEY  
CIVIC CENTRE  
5 AUG 1996  
CE

**THE TREASURY SOLICITOR**

Queen Anne's Chambers, 28 Broadway, London SW1H 9JS

DX 123242 St James's Park Fax 0171 210 3232 0171 222 6006 Switchboard 0171 210 3000 (GTN

: 10)

Mr Gurbux Singh  
Chief Executive  
London Borough of Haringey  
Civic Centre  
Wood Green  
LONDON N22 4LE

Direct Line 0171 210 3332

Please quote:

L90/6162/CJR/L8

JKH.

Your reference:

CE/GS/eml

Date:

2nd August 1996

Dear Mr Singh

**ALEXANDRA PARK AND PALACE**

Thank you for your letter of 31st July 1996 which you sent to me by fax yesterday.

I am grateful for your confirmation that the Council is no longer maintaining any claim to an indemnity in respect of the capital debt.

Turning to the revenue deficits, I note your contentions about the deficits for the years from 1987/1988 to 1990/1991, however you have not commented on the point made under the heading "Year ended 31st March 1988" on page 2 and the first full sentence on page 3 of my letter of 1st May 1996. If you wish to submit any further evidence or argument on this point, I should be grateful if you could let me know shortly.

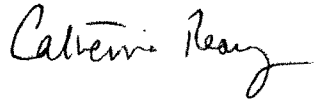
I am now in a position to reply on the figures (including interest) which you set out in the Appendix to your letter of 13th May 1996:

- (1) For 1991/2, 1992/3 and 1993/4, your figures are agreed.
- (2) For 1994/5, final agreement on the figures must wait until the audit has been formally concluded. But the figures in your Appendix are provisionally agreed, subject only to any further changes as a result of the audit.
- (3) I cannot yet agree the figure for 1995/6, which at this stage is based only on the "expected out-turn". But my letter of 1st May 1996 sets out the principles of indemnification which would apply to

that and any future years.

As to the remaining points in your letter of 31st July, including those relating to the revenue deficits for 1987/1988 to 1990/1991, I shall let you have a reply on these as soon as possible.

Yours sincerely

A handwritten signature in cursive script that reads "Catherine Reay".

CATHERINE REAY  
for the Treasury Solicitor

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**HARINGEY COUNCIL****Chief Executive**

Civic Centre, Wood Green, London N22 4LE  
Tel 081 975 9700 Fax 081 862 2906

CE/GS/DS

9th August 1996

Ms C Reay  
The Treasury Solicitor  
Queen Anne's Chambers  
28 Broadway  
London  
SW1H 9JS

Dear Ms Reay

**Alexandra Park and Palace**

Thank you for your swift response to my letter of 31st July 1996.

I had answered the points you raised in relation to "Year ended 31st March 1988" and the first full sentence of page 3 within paragraph 3a on page 4 of my letter dated 31 July. However as the point is not clear I will attempt a fuller explanation.

Major works such as those executed at the Palace are subject to contract and the expenditure incurred is phased through the project. There will be start-up costs, valuations, commitments for those parts of the contract legally committed but not yet started, retentions throughout the contract arising from sub-contracts to the main contract, and at the end of the contract a final account to bring together all the expenditure into a single document.

Retention monies are sums, usually 5% or 10% but in some cases 15%, deducted from the value of work done per interim valuations. The money is retained by the client until the completion of contracts and only paid after any snagging works have been carried and a final account agreed between client and contractor. It is not unusual for the agreement of the final account and payment to take two or three years after physical completion of the works. You will appreciate that in the case of the refurbishment of Alexandra Palace the retention sums were considerable.

As I stated in my previous correspondence the Trustees were aware as early as the summer of 1986 that an overspend of available resources was inevitable if the project was to be completed. This assessment was made on the basis of projections

containing those elements referred to above. The most prominent element was those works legally committed but not (at that time) started.

The estimates of final out-turn were based upon all the works, including those legally committed, being reflected in a projected final account as is standard practise within the building industry.

We therefore arrive at a position where the commitments to the end of the project match or exceed the available resources.

I now turn specifically to the year ended 31st March 1988. The revenue deficit for which the Council is seeking indemnification is £1.5 million (as stated in John Pirrie's letter of 23rd November 1995).

The resources available to the Trust at 1st April 1987 were required to meet the contractually committed capital expenditure including retention monies. The General Manager estimated that for 1987/88 he would make a surplus on the operation of the temporary facilities. In the event a deficit was incurred. The Council was therefore in the position of having to finance the operational deficit for the year. The Trust had been able to use the cash it had in hand to meet its capital commitments to pay the running costs until January 1988.

It is recognised that interest should only accrue from the point that the Trust was supported financially. This approach was endorsed by the Touche Ross report where interest was applied from January 1988.

With regard to the financial years 1988/89, 1989/90 and 1990/91 the position is similar to 1987/88. The Trust did not have resources or cash available to meet the operational deficits incurred. Before the commencement of each of those years the General Manager prepared estimates of operational expenditure and income. For each of the years a surplus was forecast but in each of the years an operational deficit, taking into account maintenance of the Park, was incurred which the Council financed. The Council approached the Charity Commission to seek agreement of entitlement to indemnification in respect of the 1991/92 operational deficit because that was the first year in which an operational deficit was forecast at the onset of the year.

It would be difficult to argue that the revenue expenditure was other than properly and reasonably incurred. The Trust received advice that financial outcomes were sustainable over an extended period and would be sufficient to service the operating debt in the earlier years. The downturn in the economy generally had a disproportionate effect on the Palace business and the anticipated surpluses did not materialise. The financial support provided by the Council over this period was known to the Trust and agreed by the Trustees.

I am therefore seeking your agreement that the Council is entitled to indemnification from trust assets for monies advanced to meet the operational deficits incurred in the



years 1987/88 to 1990/91 inclusive. With your agreement to the principle the sums would be recast to take into account movements in "working capital" and relevant interest would be applied as agreed with the District Auditor. A full schedule would then be submitted for your approval.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized initial 'Q' followed by a long, sweeping horizontal line that tapers to the right.

CHIEF EXECUTIVE



## THE TREASURY SOLICITOR

Queen Anne's Chambers, 28 Broadway, London SW1H 9JS

DX 123242 St James's Park Fax 0171 210 3232 Switchboard 0171 210 3000 (GTN 210)

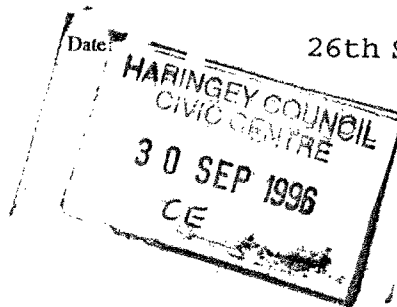
Direct Line 0171 210 3332

Mr Gurbux Singh  
Chief Executive  
London Borough of Haringey  
Civic Centre  
Wood Green  
London N22 4LE

Please quote: L90/6162/CJR/L8

Your reference: CE/GS/eml

Date: 26th September 1996



Dear Mr Singh,

### ALEXANDRA PARK AND PALACE

I am now in a position to reply to the outstanding points in your letters of 31st July and 9th August. I have also received a letter from Malkins of 7th August 1996, which I understand you approved in draft.

The Attorney General is not prepared to accept the Council's claim for an indemnity in respect of operating deficits for the years 1987/8 to 1990/1.

As regards 1987/8, you say in your letter of 9th August that the Council only started making payments in January 1988. It is therefore only in respect of any operating deficit occurring after this date that any question of an indemnity could possibly arise. Before that date, the deficit was being met by the Trust from its own resources, in exactly the same way as in the preceding years up to 31st March 1987, for which you have accepted that the Council can claim no indemnity. I do not know exactly how much the Council contributed towards operating costs in the period from January 1988 until the end of March 1988, but I assume that it may be in the region of £250,000, as suggested on page 3 of my letter of 1st May.

The total amount in issue for the years 1987/8 to 1990/1 is thus likely to be only about £1 million rather than the total of £2.399 million which you refer to on page 3 of your letter of 31st July. (Please note that your figures for 1988/9 and 1989/90 would need to be amended to take account of adjustments to working balances, and the effect of such adjustments in 1990/1 is to change the deficit into a small surplus).

The Attorney General is still firmly of the view that this operating deficit cannot be considered in isolation from the capital overspend. You say that money previously earmarked for operating costs had to be used for capital work because otherwise it would have meant the Trustees leaving the Palace in a part-built state without any potential for generating income in the future. That may be true, but it merely emphasises the point that the need for extra funds to meet an operating deficit only arose because of the huge overrun on the cost of the development.

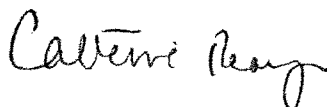
The Council's right to an indemnity for any operating deficit for the period from January 1988 to 31st March 1990 therefore remains in dispute. However, the Attorney General does not consider that this on its own need prevent the Council and the Charity Commissioners from taking whatever steps are now required to apply for a scheme and to continue to negotiate the proposed development. The debt issue can now be treated as sufficiently resolved for that purpose, provided that the Council accept that any remaining claim could only relate to the period after January 1988.

Malkins' letter also asks for confirmation that the amounts for which the Council is entitled to an indemnity may be recouped from the capital which the charity receives on the grant of a building lease. I do not dispute the principle that the charity should pay its debts if it has funds to do so, including debts owed to the Council as Trustee. But I must stress that the development is intended not merely to provide funds to repay the charity's debt, but also to ensure that its future running is put on a sound financial footing. This means that future running costs will have to be provided for, either by the developer meeting them directly or by the Council recognising that they will have to meet any shortfall as a revenue expense from year to year.

Finally, I have noted the additional points which you make in paragraphs 1(d) to (f) of your letter of 31st July 1996. In the circumstances, it is unnecessary for me to comment on these any further, but that does not mean that they are accepted.

On receiving your confirmation that no claim is pursued for any operating deficit before January 1988, I shall write to the Charity Commissioners confirming that the debt issue is sufficiently resolved for them to take whatever steps they now regard as appropriate towards the making of a scheme.

Yours sincerely



CATHERINE REAY  
for The Treasury Solicitor

**HARINGEY COUNCIL****Corporate Services**

Alexandra House, 10 Station Road, Wood Green, London N22 4TR  
Tel 0181 975 9700 Fax: 0181 862 3815  
Minicom 0181 862 3818

Your ref: L90/6162/CJR/L8

Our ref: DOCS/JP/DS  
This matter is being dealt with

by

Direct line:

27th September 1996

Ms Catherine Reay  
The Treasury Solicitor  
Queen Anne's Chambers  
28 Broadway  
London SW1H 9JS

Dear Ms Reay

**Alexandra Park and Palace**

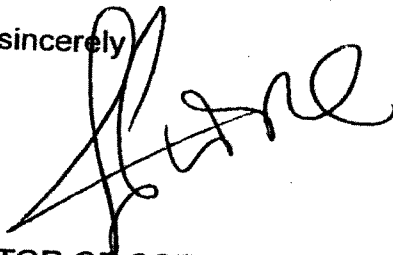
Thank you for your letter of 26th September 1996, addressed to Mr Singh who asked me to respond on his behalf.

I can confirm that Haringey Council is not seeking indemnification for monies advanced to the trust for the period before January 1988. The Council will continue to pursue its claim for right to indemnity of the operating deficits for the period January 1988 to 31st March 1990. I would wish to correct one misapprehension. The Council has decided not to pursue its claim further because it has had to accept that the Trust will not have the resources to indemnify more than the revenue deficits plus interest from January 1988.

The Council will be happy to note that the Attorney General considers the debt issue sufficiently resolved to allow the application for a scheme and negotiation of the proposed development.

I should be pleased, therefore, if you would write as soon as possible to the Charity Commissioners confirming that the debt issue is sufficiently resolved for them to take appropriate steps towards the making of a scheme.

Yours sincerely



DIRECTOR OF CORPORATE SERVICES

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**District Auditor's Report  
to Haringey Council**

*Report in the Public Interest Under Section 8, Audit Commission Act 1998*

Audit 1994/95 and 1995/96

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**Public Interest Report**

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*J McWhirr, District Auditor*

## Introduction

- 1 I am the District Auditor appointed to audit the accounts of Haringey London Borough Council ("the Council") and the Alexandra Park and Palace Trust ("the Trust") for the financial years ending 31 March 1995 and 31 March 1996.
- 2 At the audit of the Council's accounts for these two years, in letters dated 11 February 1996 and 30 June 1997, two local government electors exercised their right to make objections under 17(3) of the Local Government Finance Act 1982 ("the 1982 Act") to the accounts of the Council. Further submissions in support of the objections are contained in the correspondence from the Objectors, culminating in a letter dated 9 July 1999. The objections concern expenditure by the Council on the rebuilding of the Alexandra Palace following a fire and the Council's financing of the Trust's annual deficits thereafter. The Objectors have invited me to take action under sections 15(3), 19 and 20 of the 1982 Act. The relevant provisions of the 1982 Act were repealed and re-enacted by the consolidating Audit Commission Act 1998 ("the 1998 Act").

## The Objections

- 3 The objections may be summarised as follows:
  - (a) the Objectors contend that I should seek a declaration under section 19 of the 1982 Act (now section 17 of the 1998 Act) that the following items of account in the Council's accounts for the financial year 1994/95 are "contrary to law":
    - (i) in the analysis of debts falling due to the Council within one year, "Alexandra Palace £51,305,000"
    - (ii) in the accounts of the Alexandra Park and Palace Trust ("the Trust") (which are included within the Council's accounts), in the balance sheet, under current liabilities, "Cash Overdrawn £48,550,341" and in the income and expenditure account, "Interest £4,436,664".

The Objectors make the same contentions with regard to the corresponding items in the Council's and the Trust's accounts for the financial year 1995/96.

- (b) The Objectors assert that the above items of account are "contrary to law" on the grounds that:
  - (i) insofar as most of the £51.305m sum (and the corresponding entry for 1995/96) is irrecoverable from the Trust, its classification as a short term debt in the Council's accounts and cash overdrawn in the Trust's accounts falsifies the real financial position

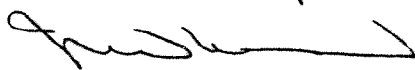
- (ii) insofar as the Council had no power to incur the expenditure or to lend money to the trustee to fund a revenue deficit in the Trust's accounts, expenditure incurred by the Council for that purpose was *ultra vires*.
  - (c) The Objectors contend that I am under a duty under section 20 of the 1982 Act (now section 18 of the 1998 Act) to certify the sums expended by the Council on the Alexandra Palace and Park, after 1990, as due from:
    - (i) John Pirrie (the officer responsible under section 151 of the Local Government Act 1972 for the administration of the Council's financial affairs from 1987 to 1996)
    - (ii) Toby Harris (Leader of the Council from 1987 to 1999)
    - (iii) Gurbux Singh (Chief Executive of the Council since 1989).
  - (d) The Objectors allege that between 1994 and 1996 approximately £100,000 of Trust monies was spent on consultants in the preparation of a bid for Central Government funds for the Millennium and object to the incurring of that expenditure. In addition, they object to expenses incurred by the Chair of the Board of Trustees, former Councillor Derek Wyatt, in visiting the Conservative Party Conference in connection with the Millennium Bid. The Objectors claim that those monies and expenses were not "legally and properly incurred". I am invited by the Objectors to take action under section 19 of the 1982 Act (now section 17 of the 1998 Act) and to certify the sums in question as due from former Councillor Wyatt as representing losses in the Council's accounts incurred by his wilful misconduct.
  - (e) The Objectors allege that a payment of £5,000 by the Council to a consultant in the search for development funds for the Trust, was incorrectly authorised. It is claimed that this sum should be certified under section 20 of the 1982 Act (now section 18 of the 1998 Act) as due from Mr Pirrie.
  - (f) The Objectors in addition request that I issue a report in the public interest under section 15(3) of the 1982 Act (now section 8 of the 1998 Act).
- 4 Section 8 of the 1998 Act requires me to consider whether, in the public interest, I should make a report on any matter coming to my notice in the course of the audit, in order for it to be considered by the body concerned or brought to the attention of the public. Section 17 of the 1998 Act requires me to consider whether I should apply to the Court for a declaration that an item of account is contrary to law. Section 18 of the 1998 Act requires me to certify as due from any person the amount of any loss caused to the Council by his/her wilful misconduct.

## My Investigation

- 5 I have carried out a careful investigation. I have reviewed substantial documentation in the possession of the Council. As required by paragraph 102 of the Code of Audit Practice, I have made available documents which may be material to my decision to the Objectors and afforded them the opportunity of commenting thereon. I have sought and had regard to representations made by the Council and those alleged by the Objectors to be guilty of wilful misconduct in response to the objections.

## Conclusion

- 6 Albeit I have found there to be items of account in the Council's and the Trust's accounts that are "contrary to law", after careful consideration I have decided, in the exercise of my discretion, not to make an application to Court under section 17 of the 1998 Act. I have concluded moreover that I have no duty to perform under section 18 of the 1998 Act. I am not persuaded that any of the named Respondents to the objection (referred to in paragraph 3(c), (d) and (e) above) are guilty of wilful misconduct. The Objectors have a right of appeal to the High Court against my decision.
- 7 I have, however, decided to uphold the objections insofar as they invite me to make a report in the public interest under section 8 of the 1998 Act. I consider that the matters before me have generated considerable public concern and that it would be in the public interest to report on my findings and views. I append to this report my Statement of Reasons for my decision not to uphold the objections insofar as they invite me to take action under sections 17 and 18 of the 1998 Act.
- 8 I propose to issue a further report in the public interest which will address a number of the issues identified in the course of my investigation and will consider the implications for the Council of these issues. I intend to publish the further report in the Autumn.



**J McWhirr**  
**Regional Director**  
**1 September 1999**



## **Appendix - Statement of Reasons**

*Haringey Council*

31 March 1995 and 31 March 1996

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### **Detailed Report**

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*J McWhirr, District Auditor*

## INTRODUCTION

- 1 I am the auditor appointed, pursuant to the Audit Commission Act 1998 ("the 1998 Act"), by the Audit Commission for Local Authorities and the National Health Service to audit the accounts of the Haringey Council ("the Council"), including the accounts maintained by the Council as the statutory trustee of the Alexandra Park and Palace Trust ("the Trust").
- 2 At the audits of the accounts of the Council for the years ended 31 March 1995 and 31 March 1996, two local government electors, Ms J Solomon and Mr P Henebry ("the Objectors") exercised their right to make objections under section 17(3) of the Local Government Finance Act 1982 ("the 1982 Act") (now section 16(1) of the 1998 Act) to the accounts of the Council.
- 3 Part III of the 1982 Act was repealed and re-enacted by the consolidating 1998 Act which came into force on 11 September 1998.

## The Objections

- 4 The objections were made in a notice of objection enclosed with a letter from the Objectors dated 11 February 1996. A fuller statement of the grounds of objection was subsequently given in a notice of objection enclosed with a letter dated 30 June 1997. Further submissions in support of the objections are contained in correspondence from the Objectors, culminating in a letter dated 9 July 1999, to which I have had regard in my consideration and determination of the objections.
- 5 The objections may be summarised as follows:
  - (a) The Objectors contend that I should seek a declaration under section 19 of the 1982 Act (now section 17 of the 1998 Act) that the following items of account in the Council's accounts for the financial year 1994/95 are "contrary to law":
    - (i) in the analysis of debts falling due to the Council within one year, "Alexandra Palace £51,305,000"
    - (ii) in the accounts of the Trust (which are included within the Council's accounts), in the balance sheet, under current liabilities, "Cash Overdrawn £48,550,341" and in the income and expenditure account, "Interest £4,436,664".

The Objectors make the same contentions with regard to the corresponding items in the Council's and the Trust's accounts for the financial year 1995/96.

- (b) The Objectors assert that the above items of account are "contrary to law" on the grounds that:
- (i) insofar as most of the £51.305m sum (and the corresponding entry for 1995/96) is irrecoverable from the Trust, its classification as a short term debt in the Council's accounts and cash overdrawn in the Trust's accounts falsifies the real financial position
  - (ii) insofar as the Council had no power to incur the expenditure or to lend money to the trustee to fund a revenue deficit in the Trust's accounts, expenditure incurred by the Council for that purpose was *ultra vires*.
- (c) The Objectors contend that I am under a duty under section 20 of the 1982 Act (now section 18 of the 1998 Act) to certify the sums expended by the Council on the Alexandra Palace and Park, after 1990, as due from:
- (i) John Pirrie (the Council's Chief Financial Officer from 1987 to 1996)
  - (ii) Toby Harris (Leader of the Council from 1987 to 1999)
  - (iii) Gurbux Singh (Chief Executive of the Council since 1989).

The Objectors assert that, on the basis that the above persons must always have been aware that the Council did not have the power to "subsidise" the Trust, the expenditure in question gave rise to losses in the Council's accounts incurred by the wilful misconduct of the three named Respondents to the Objection.

- (d) The Objectors allege that, between 1994 and 1996, approximately £100,000 of Trust monies was spent on consultants in the preparation of a bid for Central Government funds for the Millennium and object to the incurring of that expenditure. In addition, they object to expenses incurred by the Chair of the Board of Trustees, former Councillor Derek Wyatt, in visiting the Conservative Party Conference in connection with the Millennium Bid. The Objectors claim that those monies and expenses were not "legally and properly incurred". I am invited by the Objectors to take action under section 19 of the 1982 Act (now section 17 of the 1998 Act) and to certify the sums in question as due from former Councillor Wyatt as representing losses in the Council's accounts incurred by his wilful misconduct.

- (e) The Objectors allege that a payment of £5,000 by the Council to a consultant to search for development funds for the Trust, was incorrectly authorised. It is claimed that this sum should be certified under section 20 of the 1982 Act (now section 18 of the 1998 Act) as due from Mr Pirrie.
- (f) The Objectors request that I issue a report in the public interest under section 15(3) of the 1982 Act (now section 8 of the 1998 Act).
- 6 I have carried out a careful investigation. I have reviewed substantial documentation in the possession of the Council. As required by paragraph 102 of the Code of Audit Practice, I have made available documents which may be material to my decision to the Objectors and afforded them the opportunity of commenting thereon. I have sought and had regard to representations made by the Council and those alleged by the Objectors to be guilty of wilful misconduct in response to the objections.
- 7 This document constitutes my statement of reasons for my decision on the objections.

### AN AUDITOR'S POWERS AND DUTIES

- 8 Section 17 of the 1998 Act (formerly section 19(1) to (3) of the 1982 Act) provides as follows:
- "(1) Where -*
- (a) it appears to the auditor carrying out an audit under this Act, other than an audit of accounts of a health service body, that an item of account is contrary to law, and*
- (b) the item is not sanctioned by the Secretary of State,*
- the auditor may apply to the Court for a declaration that the item is contrary to law.*
- (2) On an application under this section the Court may make or refuse to make the declaration asked for, and if it makes the declaration then, subject to subsection (3) it may also-*
- (a) order that any person responsible for incurring or authorising expenditure declared unlawful shall repay it in whole or in part to the body in question and, where there are two or more such persons, that they shall be jointly and severally liable to do so*
- (b) if the expenditure declared unlawful exceeds £2,000 and the person responsible for incurring or authorising it is, or was at the time of his conduct in question, a member of a local authority, order him to be disqualified for being a member of a local authority for a specified period; and*

- (c) order rectification of the accounts.
- (3) The Court shall not make an order under subsection (2)(a) or (b) if satisfied that the person responsible for incurring or authorising the expenditure acted reasonably or in the belief that the expenditure was authorised by law, and in any other case shall have regard to all the circumstances, including that person's means and ability to repay the expenditure or any part of it".
- 9 An item of account recording expenditure and income is "contrary to law" within the meaning of that phrase in section 17 of the 1998 Act if, inter alia, it records expenditure or income which a local authority had no power to incur or receive or which was incurred without authority or which was otherwise *ultra vires* (Roberts v Hopwood [1925] AC 578; Beecham v Metropolitan District Auditor (1976) 75 LGR 79) or which was debited or credited to the wrong fund or account (Stockdale v Haringey London Borough Council (1990) 88 LGR 7).
- 10 In determining whether an item of account is "contrary to law", neither the Courts nor an auditor are entitled to substitute their own view of what may be a desirable policy for the view of a local authority. The Courts may only intervene, on the application of an auditor or otherwise, if, in exercising a discretion conferred on it by Parliament, a local authority has acted unlawfully. A local authority may act unlawfully, for example, by acting for an improper purpose, by misdirecting itself in law, by failing to take into account a matter it was bound to take into account, by taking into account a factor it ought not to take into account or by reaching a conclusion that no local authority acting reasonably could reach (see, for example, Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1 KB 223; Giddens v Harlow District Auditor (1972) 70 LGR 485).
- 11 Section 18 of the 1998 Act (formerly section 20 of the 1982 Act) provides:
- "(1) Where it appears to the auditor carrying out an audit under this Act, other than an audit of accounts of a health service body -
- .....
- (b) that a loss has been incurred or deficiency caused by the wilful misconduct of any person,
- the auditor shall certify that ..... the amount of the loss or the deficiency is due from that person.
- (2) Subject to subsections (4) and (8), both the auditor and the body concerned (or, if it is a parish meeting, its chairman) may recover for the benefit of the body a sum or amount certified under this section as due; and if the sum or amount is certified to be due from two or more persons, they shall be jointly and severally liable for it".

- 12 Wilful misconduct means deliberately doing something which is wrong, knowing it to be wrong or with reckless indifference as to whether it is wrong or not (see, for example, Graham v Teesdale (1983) 81 LGR 117). This definition which must be read so as to include wrongful omissions to act was cited with approval in Lloyd and Others v McMahon [1987] 1 AC 625. Misconduct occasioned by imprudence, negligence, excess of zeal, misplaced enthusiasm, error or lack of judgment falls short of wilful misconduct. Absent recklessness, an honest belief that the conduct in question was lawful will prevent a finding of wilful misconduct.
- 13 I am mindful of the seriousness of a charge of wilful misconduct. I remind myself that, although a section 18 enquiry is not a criminal proceeding, it should take a lot of evidence to tip the balance in favour of a positive finding of wilful misconduct, because the accusation is serious and the consequences of such a finding are grave (see Lawton LJ in Lloyd and Others v McMahon [1987] 1 AC 625, 647).

## BACKGROUND

### The Trust

- 14 The Alexandra Park and Palace (Public Purposes) Act 1900 ("the 1900 Act"), constituted a body corporate of trustees to maintain and manage the Alexandra Park and Palace ("the Park and Palace"). By the Alexandra Park and Palace Order 1966, the functions of that trustee were transferred to the Greater London Council ("the GLC"). By agreement, the trusteeship of the Trust, together with £8.5m, was transferred from the GLC to the Council on 1 January 1980.
- 15 The Council now holds the Park and Palace on the substantive trusts contained in the 1900 Act with the powers set out in that Act as extended and modified by the Alexandra Park & Palace Act 1913, the Alexandra Park and Palace Order 1966 and most recently the Alexandra Park and Palace Act 1985 ("the 1985 Act"). The duties and powers of the Council as trustee of the Trust are set out in Schedule 3 to the 1985 Act and include:

*"SCHEDULE 3*

.....

*Alexandra Park & Palace (Public Purposes) Act 1900*

.....

- 17 *The Trustees shall have the entire control and management of the park and palace acquired by them as such trustees together with all buildings now existing or hereafter erected thereon and they may exercise the following powers (that is to say):*

- (i) *They shall uphold maintain and repair the palace and other brick and stone buildings and may improve and extend the park lands and buildings.....*

.....

- (vi) *They may close any part of the palace and park for not more than fourteen days in any one year to the exclusion of the public except on payment of such admission fee as shall be fixed by the Trustees.....*

.....

*Subject to the foregoing provisions the park and other lands shall be maintained as an open space and the park palace and other lands shall be available for the free use and recreation of the public for ever".*

- 16 The Trust is a charity and is registered as such under the Charities Act 1993.

#### **Fire damage and reinstatement**

- 17 In July 1980, there was a fire at the Palace which caused considerable damage. An insurance settlement of £18.5m was received during 1981.
- 18 On 1 June 1981, the Council was advised by Leading Counsel, Leonard Bromley QC, that it was under an obligation substantially to reinstate the fire damaged Palace. They were advised that:
- "The obligation ..... is one of substantial reinstatement which can I think take advantage of modern materials and methods which must bear in mind the function imposed on the Palace by the statutory regime under the private Acts".*
- 19 In April 1984, the Council entered into a contract for the rebuilding works with Taylor Woodrow Management Contracting Limited in the sum of approximately £35.4m, which it planned to finance using the £18.5m insurance proceeds, the £8.5m received from the GLC and accrued interest (the total available funds by then being in excess of £42m). The rebuilding programme started in 1984. The Palace was partially reopened to the public in 1988 and the building work was finally completed in 1990. The project management was undertaken by the Alexandra Palace Development Team ("the Development Team") within the Council, until August 1988, when Project Management International plc ("PMI") was appointed project manager to replace the Development Team.

## The overspend on the rebuilding

- 20 It became evident during the financial year 1987/88 that a considerable overspend on the rebuilding works contract ("the overspend") was likely. In the same year, the Trust funds became exhausted and the Council as local authority financed the restoration works and other expenditure by the Trust thereafter.
- 21 PMI was asked to investigate the causes of the overspend. PMI estimated the potential overspend on the restoration works on the Palace to be in the order of £26m. In its report dated 3 February 1989, PMI concluded:
- "...The manner in which the project was set up, the inexperience of the Development Team, the lack of Project leadership in an economic sense, the poor performance of the Design and Construction Teams were all significant factors in contributing to the enormous cost overruns.*
- We have concluded that prime responsibility for this situation lies with the Alexandra Palace Development Team, the Management Team and the Committee must also share some responsibility for allowing this situation to develop when all the warning signs were being flagged for some considerable time."*
- 22 Having financed the overspend, the Council sought to recover its money from Trust funds. On 15 February 1991, the Charity Commission notified the Council of its view that:
- "Both we and the Attorney [General] are of the view that the agreement would appear to have been entered into by the Council acting in its capacity as trustee of the charity. We are also both of the view that by meeting the overspend from its corporate funds the Council, as trustee, is in a position of having spent its own funds on obligations owed by the charity and would, under trust law, prima facie be entitled to an indemnity out of the trust estate to the extent of the sums applied. However such indemnity would not arise if it was apparent that the Council acted unreasonably and improperly in incurring those liabilities".*
- 23 The Council has sought to demonstrate that the overspend was incurred reasonably and properly. This dispute has been the subject of extensive correspondence between the Council on the one hand and the Charity Commissioners and the Treasury Solicitor on the other. On 1st May 1996, the Treasury Solicitor wrote to the Council, on behalf of the Attorney General, stating that the Council's claim that the Trust should bear half of the capital deficit (the overspend) was unacceptable. The letter said that the Council needed to dissuade the Attorney General from his *prima facie* view that the overspend was not indemnifiable.



- 24 The Council recognises that, even if it were entitled to a full indemnity out of Trust funds, in practice there are no or insufficient Trust funds to effect the indemnity. The Council's current position is, as set out in a resolution of a special meeting of the Policy and Resources Committee on 20 May 1996, that the Council would not pursue its claim to indemnification in respect of the overspend, subject to not "*admitting that any part of the accumulated deficits was other than reasonably and properly incurred on behalf of the Trust*".

### The operating deficits

- 25 The Park and Palace reopened in 1988 but, in its capacity as trustee, the Council has incurred operating deficits each year (except for a small surplus in 1990/91). The Council as local authority has financed these operating deficits and has sought reimbursement from Trust funds.
- 26 By the letter dated 1 May 1996, the Treasury Solicitor, on behalf of the Attorney General, set out his views on whether and to what extent the Council as trustee was entitled to be indemnified for the costs it had incurred in financing the Trust's operating deficits. In expressing the view that no claim for an indemnity for revenue deficit could be accepted for the financial years 1988/89 and 1989/90, it was stated that the Council had not yet "*made out a sufficient case for reimbursement of revenue expenditure in these years*". It was accepted, however, that the Council was entitled to be indemnified for its costs with regard to the Trust's operating deficits for the years 1991/92 to 1994/95 and interest thereon. It was also accepted that the Council should be indemnified for any continuing operating deficit and interest which the Council could show it had incurred reasonably and properly in 1995/6 and "*any further operating deficit which may continue until payments are received from a developer*" (the Council was by then proposing that the Trust's future running costs would be provided for by rental income from a developer). For the Attorney General's view on the overspend on the rebuilding and the extent of indemnity see paragraph 23.
- 27 Despite the Attorney-General's view, the Council maintains its claim in respect of the operating deficits from April 1988 until March 1990 and interest thereon.
- 28 The Trust accounts continue to show that expenditure exceeds income resulting in further operating losses at the Park and Palace. In my view, as matters stand, there is no reasonable prospect of the Council financing the discharge of its statutory duties as trustee from Trust funds alone.

## Development of the Park and Palace

- 29 In view of the lack of Trust funds, the deteriorating assets of the Trust and the recurring annual operating deficits incurred in keeping the Park and Palace open, the Council as trustee has sought to attract external resources to put towards the financing of the Trust's deficits and expenditure. Its efforts have included a bid for Millennium funds and a concerted search for developers of and potential investors in the Park and Palace. The Council as trustee now considers that redeveloping the Park and Palace, with a long lease being granted to the developer at a premium, is the most advantageous option for the Trust and for the local taxpayers on whom the burden of the Council discharging its statutory duties as trustee continues to fall. The proposed redevelopment and lease are outside the existing powers of the Council as trustee as contained in the 1985 Act. In order to proceed with its proposal to redevelop the Park and Palace, therefore, the Council requires a variation of the statutory trusts contained in the 1985 Act. After representations made by the Council, the Charity Commissioners decided at a meeting on 6 September 1995 that:
- "1. The financial situation of the charity was such that there was a failure of the trusts within the meaning of section 13 of the Charities Act 1993 justifying a cyprès scheme and that the Commissioners would be prepared to consider promoting a scheme under section 17 of the 1993 Act given that the existing powers of the charity were insufficient to permit a development of the kind proposed.*
  - 2. The powers which would be granted in any such scheme would be of a general nature, with the intention of allowing the Trustee to engage in a viable development of the charity land and protect, as far as possible, the original charitable purposes. These powers will include a power to let a proportion of the charity's land but would not be linked to a particular development".*
- 30 A development brief was issued on 24 January 1996 which sets out the development objectives and an outline timetable. After inviting and receiving tenders from interested parties for the redevelopment of the Park and Palace, the Council as trustee selected a developer. The Council as trustee and the developer are currently in negotiation.
- 31 In September 1998, the Charity Commission formally agreed to promote a scheme for the variation of the statutory trusts contained in the 1985 Act. It is the Commission's intention to promote an administrative scheme under section 17 of the Charities Act 1993 (as opposed to a cyprès scheme as originally envisaged).

## CONSIDERATION OF OBJECTIONS

### Identity of Trustees

- 32 I address as a preliminary matter the identity of the trustees of the Trust. This has been the subject of considerable dispute. In my view, it is the Mayor and Burgesses of the London Borough of Haringey, a corporate body incorporated under section 1 of the London Government Act 1963, which is the trustee of the Trust and which holds the Park and Palace on the substantive trusts of the 1900 Act. Such functions as are vested in that corporate body are exercisable by the Council of the London Borough of Haringey (see paragraph 1(2) of Schedule 2 to the Local Government Act 1972).

### My approach to the Objections

- 33 My approach to the objections is to consider separately the overspend (incurred by the Council as trustee on the contract to rebuild the Palace) and the Council's financing of the Trust's operating deficits from April 1988. I consider with regard to each whether there are any items of account which are "contrary to law" within the meaning of section 17 of the 1998 Act. I then consider the treatment of the overspend and operating deficits in the Council's and Trust's accounts. In this respect, I have had regard to revisions to the statements of accounts which have been made since the objections were made and on which the Objectors have been given the opportunity to comment.
- 34 Next, I consider the Objectors' contention that expenditure on the Park and Palace incurred after 1990 represents a loss in the Council's accounts in relation to which I am under a duty under section 18 of the 1998 Act ("surcharge for wilful misconduct").
- 35 Finally, I consider particular items of expenditure incurred by the Council, as trustee, on the development of the Park and Palace and more generally, the question of delegated authority for expenditure on the Park and Palace.

### The overspend on the rebuilding

- 36 I consider first, in relation to the overspend, whether there are any items of account in the Council's accounts which are "contrary to law" within the meaning of the phrase in section 17 of the 1998 Act. The Objectors contend that the Council had no power to incur the overspend on the rebuilding contract. They claim that section 17 of the 1900 Act, as set out in Schedule 3 to the 1985 Act, does not impose a duty or power on the Council, as trustee, to use its own funds to maintain the Park and Palace but only imposes a duty or power to do so to the extent that Trust funds are available.

- 37 By virtue of section 17 of the 1900 Act, the Council is under a duty to "uphold maintain and repair the palace....." and to maintain the Park and other lands as an open space in order to make them "available for the free use and recreation of the public for ever". My view is that the Council as trustee was under a duty under section 17 of the 1900 Act substantially to reinstate the fire-damaged Palace and its decision to enter into the contract with Taylor Woodrow Management Contracting Limited was within its statutory powers as trustee. My conclusion that section 17 of the 1900 Act imposes a duty as opposed to a power, arises primarily out of the use of the express word "shall" (see paragraph 15 above). In my view, the word "shall" has the effect of imposing mandatory obligations: see for example, *Grunwick Processing Laboratories Ltd v ACAS* [1978] AC 655, 690 per Lord Diplock. I have in addition noted the juxtaposition of the words "shall" and "may" in the same section, thereby emphasising the mandatory nature of the former.
- 38 Under general principles of trust law, the Council as trustee is entitled to seek an indemnity from Trust funds for any expenditure it has reasonably and properly incurred in carrying out those duties. In my view, where the Trust funds are insufficient to indemnify the Council, unless and until its statutory duties are modified or discharged the Council remains under an obligation to carry out its statutory duties and, insofar as the Trust funds are insufficient, the expenditure incurred in carrying out those statutory duties must be borne by the Council and met by local taxpayers.
- 39 It became evident during the financial year 1987/88 that a considerable overspend on the rebuilding works was likely, estimated by PMI in its report as being in the order of £26m. In the same year, the Trust's funds became exhausted.
- 40 Insofar as expenditure, including the overspend, was incurred by the Council in carrying out its statutory duties as trustee of the Trust, I consider that the expenditure was *intra vires* the Council and lawful. The Council was under a duty substantially to reinstate the fire-damaged Palace; the fact that the eventual costs of reinstating the Palace greatly exceeded the costs estimated when the contract was entered into does not make unlawful the decision to enter into the contract to restore the Palace. Nor does the fact that any such expenditure may not be recovered from the Trust funds by way of indemnity of itself render that expenditure unlawful.
- 41 However, whilst the Council as trustee is under an obligation to carry out its statutory duties in relation to the Park and Palace whether or not the Trust has sufficient funds to indemnify the Council's expenditure, in my view where Trust funds are exhausted the Council is not entitled to exercise its powers as trustee to incur expenditure over and above that *necessary* for it to perform its *statutory duties* as trustee. It is not entitled to impose the burden of administering the Trust on local taxpayers save insofar as it is required by Parliament to do so.

- 42 The Council as trustee was under a statutory obligation to rebuild the Palace. At the time when the Council as trustee decided the manner in which to rebuild the Palace, the Trust funds available exceeded the planned expenditure. In my view, the Council enjoyed a wide margin of discretion in deciding the way in which the Palace was to be reinstated. It is not for me to substitute my view for that of the Council on how in the circumstances its statutory duty should have been fulfilled.
- 43 I am satisfied that the Council, in deciding to reinstate the Palace, acted lawfully and that those Members and officers responsible for the Council incurring expenditure in reinstating the Palace acted in the belief that the expenditure in question was authorised by law. The Council had received Leading Counsel's advice that it was under an obligation substantially to reinstate the Palace (see the advice of Leonard Bromley QC referred to at paragraph 18 above) and Members and officers were entitled to rely on that advice.
- 44 The Objectors further contend that the decision to rebuild the Palace was unlawful on the basis that it went beyond the terms of section 17 of the 1900 Act (authorising "repair") and that it was more in the nature of a development of the Palace. As stated above, the Council enjoyed a wide margin of discretion in deciding the way in which the Palace was to be reinstated and there is no evidence before me which leads me to conclude that that discretion was exercised unlawfully.
- 45 Insofar as the Council as local authority met the cost of the overspend, the question arises whether, as trustee, it is entitled to an indemnity from the Trust. In its capacity as trustee, the Council is entitled to an indemnity from Trust funds to the extent that it has acted reasonably and properly in incurring expenditure and liabilities on behalf of the Trust.
- 46 The Objectors argue that *"once Trust funds are exhausted, the only effective duty is that under the Open Spaces Act 1906. A local authority which maintains an open space under that Act does so under that duty and has no claim to an indemnity"*. Articles 4 and 7 of the Alexandra Park and Palace Order 1966 ("the 1966 Order") (as set out in Schedule 3 to the 1985 Act) provide:
- "4. Without prejudice to the exercise of any other power by the Trustees, the following provisions, that is to say, the Open Spaces Act 1906 (other than section 14 thereof) and sections 52 to 54 of the Public Health Act 1961 and, for the purposes of the said section 54, the provisions therein mentioned of the Public Health Act 1933, shall have effect as if, for the purposes of the park, the Trustees were included among the local authorities to whom the provision in question applies.*
- .....

7. *The park shall, subject to the provisions of the Alexandra Park and Palace Acts and Order 1900 to 1985 be held by the Trustees for the purposes of the Open Spaces Act 1906*".
- 47 I accept that the effect of the above articles of the 1966 Order is to confer on the Council as trustee, in relation to the Park (but not the Palace) the said powers and duties conferred as local authorities by the Open Spaces Act 1906 and the other statutory provisions mentioned in that Order. However, it does not follow from this conclusion that "*once Trust Funds are exhausted, the only effective duty is that under the Open Spaces Act 1906*". That submission is contrary to the plain words of the 1985 Act which impose a duty on the Council to maintain the Park *and Palace*: see above.
- 48 In my view, the further submission by the Objectors that the Council as local authority has no claim to an indemnity from Trust funds in view of the provisions of the 1966 Order does not follow from the premise on which it is based and is without merit.
- 49 Insofar as the Council as trustee is subject to duties under the 1900 Act and/or in consequence of the 1966 Order, I am of the view that expenditure reasonably and properly incurred by the Council as trustee but met by the Council as local authority, may lawfully be indemnified by the Trust. The fact the Council as trustee may be authorised or required to incur that expenditure (in relation to the Park) by the Open Spaces Act 1906 is nothing to the point.
- 50 I have considered whether the Council incurred the overspend on the rebuilding reasonably and properly and whether it is therefore entitled to an indemnity from Trust funds. In particular, I have had regard to the PMI report of 3 February 1989 which concluded that the amount of the overspend was significantly increased by the actions of the Council and its officers. The report was highly critical of the Development Team, the Design and Construction Teams and the leadership of the restoration project and regarded its criticisms as "*all significant factors in contributing to the enormous cost overruns*". In these circumstances, I share the *prima facie* view of the Attorney General that the overspend is not indemnifiable (see paragraph 23 above).
- 51 Finally the Objectors allege that the Council had no power to lend money to the Trust to finance the overspend. I agree with this. However, this is not what happened. The Council incurred the expenditure as trustee pursuant to its duty to reinstate the Palace and, once Trust funds had run out, financed that expenditure in its capacity as local authority subject to such rights of indemnity as arise against Trust funds. It is wrong in fact and law to regard this situation as the Council as local authority lending money to itself as trustee.

- 52 It follows from the above paragraphs that, in my view, the contention by the Objectors that the Council had no power to incur the overspend cannot be sustained. I have decided therefore that there are no items of account, referable to the legality of the Council meeting the cost of the overspend, which are "contrary to law" within the meaning of section 17 of the 1998 Act. Accordingly, I decline to uphold this head of objection.

### The operating deficits

- 53 The Objectors contend that section 17 of the 1900 Act does not impose a duty on the Council to use its own funds in meeting the cost of the operating deficits but only such funds as are in the Trust. The Council, in its capacity as trustee, is under statutory duties to "*uphold maintain and repair the palace*", to maintain "*the park and other lands ..... as an open space*" and to secure that "*the park palace and other lands shall be available for the free use and recreation of the public forever*" (section 17 of the 1900 Act). I am satisfied that the Council was not only entitled but required, in the discharge of its statutory duties as trustee, to incur expenditure on the Trust's operating costs and deficits incurred in maintaining the Park and Palace (see paragraph 37 above).
- 54 As set out in paragraphs 38 to 40 above, it is my view that the Council as trustee is under an obligation to carry out its statutory duties in relation to the Park and Palace whether or not the Trust has sufficient funds to indemnify the Council's expenditure. However, in so doing, given that the Trust funds are exhausted, the Council is not entitled to exercise its powers as trustee to incur expenditure over and above that necessary for it to perform its statutory duties as trustee. The Council enjoyed a wide margin of discretion in deciding the way in which the Park and Palace was to be maintained. It is not for me to substitute my view for that of the Council's on how this discretion should have been exercised. There is, moreover, no evidence before me which leads me to the view that the Council has incurred greater expenditure by way of operating costs than was necessary to discharge its statutory duties. The Council recognises its responsibilities and is maintaining the Park and Palace at a minimum level. In my view, therefore, the Council, as local authority, was authorised, indeed required, to meet the costs of the operating deficits for the years of account under objection. In my opinion, the Attorney General's view, as set out in the letter of 1 May 1996, with regard to the extent of entitlement to indemnity from Trust funds, is *prima facie* correct (see paragraph 26 above).

- 55 In the circumstances, I am of the view that the contention by the Objectors that the Council had no power to incur the operating deficits cannot be sustained and there are no items of account in the Council accounts for the years under investigation, referable to the Council meeting the cost of the operating deficits, which are "contrary to law" within the meaning of section 17 of the 1998 Act. Accordingly, I decline to uphold this head of objection.

### Treatment of overspend and operating deficits in the accounts

#### The Council's accounts

- 56 I consider here the question of the treatment in the Council's accounts of the overspend and operating deficits. At the date of the objections, these amounts were classified as "short term debts" in the Council's accounts. This has been of particular concern to the Objectors on the basis that, they say, this falsifies the real financial position and may lead at some point in the future to the Council seeking to make recovery from the Trust. However, in my view, the treatment of the relevant sums in the accounts cannot and does not have any bearing on the Council's ability in law to seek to recover the monies from the Trust at any stage. The right to an indemnity and the enforceability of that indemnity cannot be affected by the way in which the relevant sums are treated in the accounts of either the Council or the Trust.
- 57 Since the objections were made, the Council has amended its statements of accounts (for both financial years to which the objections relate) to identify separately, the so-called "indemnified sum" and "non-indemnified sum". The indemnified sum consists of the amounts accepted by the Attorney General as subject to an indemnity from the Trust. As set out at paragraph 26 above, these consist of first, the operating deficits for the years 1991/92 to 1994/95 (with interest) and second, the operating deficit for 1995/96 (with interest), for which the Attorney General has agreed in principle the Council will be entitled to an indemnity if able to show that it incurred its expenses as trustee reasonably and properly. The non-indemnified sum is the remainder of the expenditure incurred by the Council on the Park and Palace. That sum consists therefore of the sums which are not accepted by the Attorney General as subject to an indemnity, that is, the overspend (with interest) and the operating deficits prior to 1991/2 (with interest).



- 58 Both the indemnified sum and the non-indemnified sum are now classified in the Council's accounts as "long term debtors". The Explanatory Foreword to the 1995/6 Accounts states:

*"During 1996/7 The Attorney General ruled that the Council was only entitled to such indemnification for sums expended for the Trust in respect of certain revenue deficits. The Council subsequently agreed not to pursue the capital element of sums expended. As a result the 1996/7 accounts were restated along with the accounts for all other years which were still open. The accounts for 1994/95 and 1995/96 have therefore been restated to reflect the following significant areas of change:*

*A reflection of the write-down of fixed assets to a nil value in the 1994/95 accounts.*

*An amendment of the liability in the Trust's accounts to reflect the indemnification amount due as agreed by the Attorney General.....The categorisation of the Trust's debt as a long term debtor in the Council's accounts and recognition of the indemnified sum in the 1994/95 accounts".*

The accounts for the financial year 1994/95 contain a similar paragraph. In my view, when read with the above foreword to the accounts and the accompanying explanatory notes setting out the background to the relevant entries, the accounts present fairly the financial position of the Council.

- 59 The Council has, in my opinion, made adequate provision in the accounts for the possibility that it may not recover the indemnified sum. With regard to the non-indemnified sum, the Council's position is that it is not seeking recovery from Trust funds.
- 60 In the accounts under consideration, the non-indemnified sum was not charged to revenue. I am of the view that the revenue and capital finance regime as set out in Part IV of the Local Government and Housing Act 1989 ("the 1989 Act") requires the Council to make full provision immediately a liability is recognised. It does not allow the Council in these circumstances to defer expenditure (within the extended definition given by section 41(3) of that Act) beyond the year in which it was incurred without the necessary authority not to charge an item to the revenue account. The Council did not, in my view, have the requisite authority.
- 61 The Council proposes to finance the non-indemnified sum over 10 years and based on an annuity for that period has calculated it should set aside £7.7m per annum on a constant basis for this purpose (see the minutes of the special meeting of the Policy and Resources Committee on 12 October 1998).

- 62 At the Council's request, the Secretary of State has issued a direction under section 40(6) of the 1989 Act increasing the Council's Aggregate Credit Limit for the last quarter of 1996/97 and the whole of the financial year 1997/98. This, the Council claims, avoids the need for the full sum to be regarded as a current revenue liability and will allow for the monies to be written-off at some future date if and when the decision is taken not to pursue recovery from the Trust. However, a direction issued under section 40(6) of the 1989 Act does not and cannot have this effect.
- 63 For the reason given at paragraph 60 above, it appears to me that the items of account with regard to the non-indemnified sum recorded in the Balance Sheet at 31 March 1995 as £41m and 31 March 1996 as £46m are "contrary to law" within the meaning of the phrase in section 17 of the 1998 Act. I am required therefore to consider whether to exercise my discretion under section 17 of the 1998 Act and make an application to the Court for a declaration to that effect.
- 64 In considering this matter, I have taken account of the fact that the Council are taking steps, over a period of 10 years, to remedy the unlawfulness in its accounts and I have had regard to the potentially detrimental effect on the Council's finances and services were the whole sum to be charged to revenue in a single year. An application to the Court would involve substantial expenditure, the costs of which would be likely to fall on local taxpayers. Moreover, as the items of account are "contrary to law" not because they record unlawful expenditure but because they record expenditure charged to the wrong year of account, the Court could not order any person to repay any amount to the Council (see *R v Dolby (No. 1)* [1892] 2 QB 301). In these circumstances, any application to the Court would be without compensating benefit for local taxpayers.
- 65 I have accordingly, in the exercise of my discretion, decided against applying to the Court for a declaration under section 17 of the 1998 Act. I decline to uphold the objection insofar as it invites me to make an application to the Court in respect of the treatment of the overspend and operating deficits in the Council's accounts.

#### The Trust's accounts

- 66 The Objectors have complained that the treatment of the sums attributable to the overspend and operating deficits in the Trust's accounts falsifies the real financial position. I have set out above the Council's entitlement to reimbursement from the Trust in respect of money that it has expended on the Trust's behalf. At the date of the objections, the Trust's accounts classified the total of the sums objected to as a liability to the Council. As a result of the objections however, the Council has amended the Trust's accounts to remove the "overdraft" item and to show only the indemnified sum as a liability. The explanatory notes to the accounts for the year 1995/96 state that:

*"During 1996/7 the Attorney General ruled that the Council was only entitled to ..... an indemnification for sums expended for the Trust in respect of certain revenue deficits. The Council subsequently agreed not to pursue the capital element of sums expended. As a result the 1996/97 accounts were restated along with the accounts for 1994/95 and 1995/96 which were still open.*

*In 1994/95 a liability was created in respect of amounts due in accordance with the decision of the Attorney General".*

The notes to the accounts for the financial year 1994/95 contain similar paragraphs. In my view, when read with the Explanatory Foreword to the accounts (see paragraph 58) and the accompanying explanatory notes setting out the background to the relevant entries, the accounts present fairly the financial position of the Trust.

- 67 In my view, the treatment of the relevant sums in the Trust's accounts, as amended, does not give rise to any item of account which is "contrary to law". Accordingly, I decline to uphold the objection insofar as it invites me to make an application to the Court in respect of the treatment of the overspend and operating deficits in the Trust's accounts.

#### Interest

- 68 Finally on the question of the treatment of the relevant sums in the accounts, I have considered whether interest should have been added to the overspend and operating deficits.
- 69 With regard to the non-indemnified sum, as the Council as local authority is not entitled to an indemnity from the Trust, I agree with the Objectors that there is no debt on which interest could accrue. In substance, this position has been accepted by the Council which has decided not to pursue recovery of the overspend (including interest thereon), a matter which is expressly recognised in both sets of accounts. With regard to the indemnified sum, I accept the Attorney-General's view, as set out in his letter of 1 May 1996, that *"the Council are entitled to recover the actual borrowing costs of expenditure properly incurred on the charity's behalf"*. Interest representing such borrowing costs is therefore due on the indemnified sum.

## Section 18 of the 1998 Act

- 70 The Objectors have alleged that John Pirrie, the Council's Chief Financial Officer, Toby Harris, Leader of the Council and Gurbux Singh, Chief Executive are guilty of wilful misconduct. I am invited to certify the sums expended by the Council on the Park and Palace from 1990 as due from those persons. The Objectors have stated that those persons "*must always have been aware of the opinion of Elias QC and Pitt-Payne dated 4 November 1990....that the Council did not have powers to subsidise the Trust*".
- 71 At paragraphs 11 to 13 above, I set out section 18 of the 1998 Act and the test for "wilful misconduct".
- 72 The involvement of the three named individuals in the affairs of the Park and Palace arose out of their senior positions within the Council. John Pirrie was the Council's Chief Financial Officer (the officer responsible for the administration of the Council's financial affairs under section 151 of the Local Government Act 1972) from 1987 to 1996. Toby Harris was the Leader of the Council from autumn 1987 to April 1999. Gurbux Singh has been Chief Executive, the Head of Paid Service and the Council's Monitoring Officer from 1989.
- 73 As stated above, I am of the view that the Council is under a duty to maintain and repair the Park and Palace and as such was and is empowered to incur expenditure for those purposes. As such, I consider that as the Council was under a duty to "*subsidise the Trust*" there was no misconduct as alleged. I note, in any event, that the Council went to considerable lengths to obtain legal advice on its powers and duties as a trustee. It had before it a substantial body of Counsel's opinion and I am satisfied that the Council was endeavouring to fulfil its statutory duties in a responsible and lawful manner. The opinion referred to above from Patrick Elias QC and Timothy Pitt-Payne was, in my view, focused on employment issues and not the powers and duties of the trustee under section 17 of the 1990 Act. The suggestion that the Council had no power to subsidise the Trust was not the subject of analysis and was tangential to the opinion itself.
- 74 There is no evidence before me that any acts or omissions of John Pirrie, Toby Harris or Gurbux Singh with regard to expenditure on the Park and Palace after 1990 amounted to wilful misconduct. Accordingly, I have no duty to perform under section 18 of the 1998 Act with regard to the said expenditure.

**Particular items of expenditure and the question of delegated authority**

- 75 The Objectors have drawn my attention to a number of items of other expenditure connected with the development of the Park and Palace. The essential objection is that expenditure on these items was not properly authorised. In this regard, the general rule is that all expenditure must either be authorised by the Council itself or by Committees, Sub-Committees or officers under powers delegated to them pursuant to section 101 of the Local Government Act 1972.
- 76 The Objectors have complained that approximately £100,000 of Trust monies was spent between 1994 and 1996 on consultants in the preparation of a bid for Central Government funds for the Millennium. In addition, they object to the expenses for a visit to the Conservative Party Conference by the Chair of the Board of Trustees, former Councillor Derek Wyatt, in connection with the Millennium bid. They claim that these monies were not *"legally and properly incurred"*. I am invited to take action under section 19 of the 1982 Act (now section 17 of the 1998 Act) on the basis that the expenditure is "contrary to law" and under section 20 of the 1982 Act (now section 18 of the 1998 Act) on account of the alleged wilful misconduct of former Councillor Derek Wyatt.
- 77 In the financial year 1994/95, the Trust made a payment of £5,000 to a consultant *"for service rendered in identifying and introducing potential investors in Alexandra Palace"*. Her fee was authorised by the former Chief Financial Officer, John Pirrie. The Objectors allege that the payment was incorrectly authorised. It is claimed that this sum is therefore due under section 20 of the 1982 Act (now section 18 of the 1998 Act) from John Pirrie.
- 78 The Objectors have specifically drawn my attention to a letter dated 4 December 1991 from the Treasury Solicitor, on behalf of the Attorney General. This stated that:
- "The Attorney General does not believe that it is possible for the Council as Trustee to make a proper and informed decision about the long-term future of the Park and Palace without knowing the approximate amount of the overspend for which the Charity is liable....."*
- The Attorney General is particularly concerned that no irrevocable commitment is entered into at this stage, while the financial position of the Charity is so uncertain."*

- 79 In June 1993, the Trust's Board resolved to pursue Millennium lottery funds and authorised expenditure of up to £5,000 "*for investigating the possibility for a bid*". In July 1994, without making reference to any actual figures, the Board took the view that the necessary expertise was not available in-house and resolved to engage consultants to assist with the bid. Over the next year work was undertaken by a number of consultants who were paid approximately £100,000 for their services. The expenditure was purportedly authorised by the former General Manager, Charles Gorman, under delegated powers.
- 80 A report to the Board, at the December 1994 meeting, from the Trust's Solicitors, advised against expenditure on future projects, (specifically those which were the subject of the proposed Millennium bid), before resolution of the "debt issue". The Trust's Solicitors said that "*it is impossible for the Board to make any proper and informed decisions about the Charity's long term future*". They drew attention to the advice of the Attorney General (see paragraph 78 above).
- 81 In October 1994 former Councillor Wyatt, the Chairman of the Board and a Labour Councillor, attended the Conservative Party Conference with the purpose of furthering the bid for Millennium lottery funds. The expenses for the visit, which came to £317, were purportedly authorised by the then General Manager of the Trust.
- 82 In the event, the bid for Millennium funds was unsuccessful.

#### Section 17 of the 1998 Act

- 83 The Council has responded (on its own and John Pirrie's behalf) to this part of the objection by stating that the expenditure on the bid for Millennium lottery funds, on the attendance at the Party Conference and on consultant's services were for the purpose of finding external resources to be put towards the development of the Park and Palace. Former Councillor Wyatt has told me that his expenses in attending the Party Conference were also for this purpose.
- 84 I consider that it was within the Council's powers, as trustee, to promote development of the Park and Palace and to incur associated expenses. In this regard I have had regard to the fact that the Council as trustee has the duty to "*uphold, maintain and repair the Palace*" and to maintain the Park and other lands as an open space in order to make them "*available for the free use and recreation of the public for ever*" and to "*generally do any act or thing which may in the judgment of the Trustees appear calculated to promote the use and enjoyment of the park and palace by the public*" (see section 17 of the 1900 Act).

- 85 I have had regard to the advice from the Attorney General to which the Objectors draw attention. I note, however, that this advice was against entering into "irrecoverable commitments" in relation to the long term future of the Park and Palace while the financial position of the Trust was uncertain. The Attorney General does not advise against incurring revenue expenditure for the purpose of finding external resources to be put towards the development of the Park and Palace. I have also had regard to the advice of the Trust's Solicitors against the Trust proceeding with any projects before settlement of the "debt issue". Express reference is made to the Solicitors' advice in the minutes of the December 1994 Board meeting indicating that it had taken the advice (and thereby the Attorney General's views) into account before deciding to proceed. The minutes state that "*further expenditure*" was needed on the bid.
- 86 The Council as trustee enjoyed a wide margin of discretion in deciding how to exercise its discretionary powers and the manner in which its statutory duties were to be discharged. As stated above, I am of the view that it was within the Council's powers as trustee, to promote development of the Park and Palace and to incur associated expenses. As such, I am of the view that the Council was entitled as trustee to decide to incur the expenditure on the Millennium bid, the Conservative Party visit and a consultant's services. The question which then arises is whether the decisions actually taken to incur the expenditure were properly authorised. The relevant decisions were taken variously by the Board, the then General Manager of the Trust, Charles Gorman, and the Council's Chief Financial Officer, John Pirrie.
- 87 The Council has been unable to provide me with documentary evidence that the Board had delegated authority to incur expenditure on the Council's behalf. The documents entitled "Scheme of Delegation and Terms of Reference" for the years of objection fail to designate the Board as a Committee of the Council and to make specific provision for the delegation of the Council's powers as trustee to the Board. The Council contends that the Council can be said to have authorised Board expenditure by approving the yearly budgets. However, both budgetary and delegated authority were required. Budgetary authority is required in respect of Council expenditure irrespective of whether or not authority to incur that expenditure is delegated. A decision to approve a budget is not the same as authorising expenditure within an approved budget head. As such, the budgetary approval given by the Council does not amount to the necessary delegated authority for the expenditure in question. It follows that the expenditure purportedly authorised by the Board was "contrary to law" within the meaning of the phrase in section 17 of the 1998 Act.

- 88 A significant proportion of Trust expenditure in the years of account under objection was purportedly authorised by Charles Gorman, the former General Manager of the Trust, including the expenditure on the Conservative Party visit and the majority of the expenditure on consultants for the Millennium bid. The Council has been unable to provide any documentary evidence which establishes that delegated authority was conferred on Trust officers to authorise expenditure on the Park and Palace. The Schemes of Delegation are silent on this point. I am told by the former General Manager that he understood his authority to derive from the fact that there was a marketing budget approved by the Board and subsequently the Council, which he believed he had authority to spend. As stated above, budgetary authority (even if the Board had the required authority to approve this) does not amount to authorisation to incur particular expenditure. The former General Manager did not have the necessary delegated authority to do this and as such the expenditure in question was "contrary to law" within the meaning of the phrase in section 17 of the 1998 Act.
- 89 I have considered whether John Pirrie, the then Chief Financial Officer, had the authority to incur expenditure on the Trust, including that spent on a consultant's services. The Council has told me that his authority derived from the fact that the expenditure was "*a legitimate charge to the marketing budget*". For the reasons given at paragraph 87 above budgetary authority (even if properly given) did not suffice to provide John Pirrie with the requisite authority.
- 90 I have accordingly to decide whether or not to make an application to the Court under section 17 of the 1998 Act. In this regard I have taken into account the fact that the Scheme of Delegation for 1988/89 did properly designate the Board as a Committee thereby attracting the requisite delegated power to authorise expenditure on the Trust (see Part 1 of that document). There is nothing to suggest that the changed wording of the Scheme from that in force in 1988/89 to that in force in 1989/90 and subsequent financial years (in which the delegation was not properly effected), was anything other than an oversight. In the circumstances, I am satisfied that the decisions by the Board members to incur expenditure on the Park and Palace were taken in the belief that they were authorised by law.



- 91 With regard to the expenditure purportedly authorised by John Pirrie and the former General Manager of the Trust, I am of the view that John Pirrie, as the officer responsible for the proper administration of the Council's financial affairs, should have put in place effective arrangements to ensure that only properly authorised expenditure was incurred. The former General Manager was also at fault for not checking that he had the requisite authority. However, it appears to have been a wide-spread (albeit erroneous) belief that budgetary authority sufficed to give officers the delegated authority to incur expenditure. I am not persuaded that the individuals concerned (including former Councillor Wyatt) acted otherwise than in the belief that the necessary arrangements for delegated authority were in place and therefore that the expenditure was authorised by law.
- 92 In these circumstances, I consider it unlikely that a Court would order any person to repay any of the unlawful (unauthorised) expenditure and therefore that no useful purpose would be served in applying to Court under section 17 of the 1998 Act. I have accordingly, in the exercise of my discretion, decided against applying to Court for a declaration and decline to uphold the objection insofar as it invites me to make such an application in respect of particular items of Trust expenditure on the Park and Palace, in the Trust's accounts.

#### Section 18 of the 1998 Act

- 93 The Objectors have alleged that John Pirrie and former Councillor Wyatt are both guilty of wilful misconduct with regard to expenditure associated with the development of the Park and Palace. As stated above, it is my view that the Council's efforts as trustee to promote development of the Park and Palace and to incur associated expenditure were within its powers. I am satisfied that the actions of both individuals were for the purpose of obtaining external resources for the development of the Park and Palace and were as such for a lawful purpose.
- 94 In my view, John Pirrie as the officer responsible for the proper administration of the Council's financial affairs, should have put in place effective arrangements to ensure that only properly authorised expenditure was incurred. I am also critical of former Councillor Wyatt, as Chairman of the Board, in this regard. I accept, however, that both individuals were unaware of the lack of delegated power. As noted at paragraph 12 above, negligence and/or lack of judgment fall short of wilful misconduct. I therefore do not consider there to have been any wilful misconduct by either John Pirrie or former Councillor Wyatt with regard to the matters raised by the Objectors. I have no duty to perform under section 18 of the 1998 Act. Accordingly, I dismiss the section 18 objection insofar as it invites me to certify a sum as due from the two above named individuals on account of their alleged wilful misconduct.

- 95 I am concerned however at the apparent lack of financial control over both delegated authority to incur expenditure and in particular the overall amounts spent on development of the Park and Palace. I have not been given a satisfactory explanation for why the expenditure on the Millennium bid, authorised by the Board at a level of £5,000, in the event went as high as £100,000. Due to a lack of documentary evidence I have not been able to ascertain why the proposed increase in expenditure, way beyond that originally agreed at Board level, was not expressly referred to the Board for approval (save in relation to a further £5000 for a proposed aerial cableway system). Responsibility for the systems for financial control and delegated authority lies primarily with the Board and the then section 151 officer, John Pirrie. These are matters which I intend to address in the forthcoming public interest report under section 8 of the 1998 Act (see below).

## **PUBLIC INTEREST REPORT**

- 96 I have decided to uphold the objections inviting me to issue a public interest report into the subject matter and outcome of these objections. A draft report is in the course of preparation.

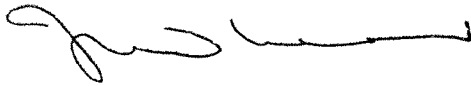
## **CONCLUSION**

- 97 I have carefully considered all of the evidence before me, whether or not specifically referred to in this statement of reasons.
- 98 In my view, there are items of account which are "contrary to law" (within the meaning of the phrase in section 17 of the 1998 Act) in the Council's and the Trust's accounts. These relate to:
- (a) the treatment of the overspend and operating deficits in the accounts (see paragraphs 60 to 65)
  - (b) the arrangements for the delegation of authority for the authorisation of Trust expenditure (see paragraphs 87 to 92).

I have however decided, in the exercise my discretion, not to make an application to the Court. I have in addition concluded that I have no duty to perform under section 18 of the 1998 Act in respect of any of the matters raised by the Objectors.

- 99 I have decided to uphold the objections insofar as they invite me to issue a report in the public interest under section 8 of the 1998 Act.

100 This document constitutes my statement of reasons for my decision. The Objectors have a right of appeal to the Court against my decisions not to uphold their objections insofar as they invite me to take action under sections 17 and/or 18 of the 1998 Act. The enclosed form AF74 gives guidance as to the appeals procedure.



**J McWhirr**

**District Auditor**

**1 September 1999**

# ALEXANDRA PARK AND PALACE CHARITABLE TRUST

## 18. Provision

	Group 2008 £	Group 2007 £	Trust 2008 £	Trust 2007 £
Haringey Council: Indemnification	37,363,918	34,574,233	37,363,918	34,574,233
<b>Reconciliation of movement:</b>				
Balance brought forward	34,574,233	33,022,439	34,574,233	33,022,439
Amount charged to SOFA	444,292	329,466	444,292	329,466
Transfer to bank less VAT debtor	2,345,393	1,222,328	2,345,393	1,222,328
Balance carried forward	37,363,918	34,574,233	37,363,918	34,574,233

### The relationship between the Trust and the London Borough of Haringey:

The Council of the London Borough of Haringey is Trustee of the Trust. The Council delegates the entire function of trustee to the Alexandra Park and Palace Board. The Council elects individual members to sit on the Alexandra Park and Palace Board to act as the charity trustees. The charity trustees are those persons having the general control and management of the administration of the Trust. All employees of the Trust are employees of Haringey Council as trustee and are included in the Council's pension arrangements.

Due to the nature of the relationship between the Trust and Haringey Council there are a number of significant related party transactions. These amounts are consolidated into the Trust's financial statements. However, due to the unique nature and structure of the relationship it is thought appropriate to disclose these items: central administration of £Nil (2007: £30,000); entertainment licences of £43,419 (2007: £46,104); public liability insurance £36,303 (2007: £34,574); provision of park patrol service £34,460 (2007: £33,620); legal expense £977 (2007: £1,625); printing and other sundry items of £2,250 (2007: £3,654).

Alexandra Park and Palace Charitable Trust is a going concern due to the ongoing support of the corporate Trustee, London Borough of Haringey. It is the Council's current policy to continue providing this support until such time as it is no longer required. The deficits incurred each year form part of the provision due to Haringey Council and are shown as a creditor on the balance sheet.

The analysis of the current year's figure is as follows:

	Accumulated Balances £'000	Interest £'000	Total £'000
Indemnification 1991/92 to 1994/95 (1)	5,005	9,881	14,886
Indemnification 1995/96 to 2007/08 (2)	14,228	4,854	19,082
Provision: 1988/99 to 1990/91 (3)	755	2,641	3,396
	19,988	17,376	37,364

# ALEXANDRA PARK AND PALACE CHARITABLE TRUST

## 18. Provision (continued)

1. This is the amount which the Attorney General has agreed that Haringey Council is entitled to, in respect of expenditure incurred from operational deficits in the financial years 1991/92 to 1994/95.
2. This is the amount relating to the operational deficits for 1995/96 to 2007/08 which the Attorney General has agreed in principle that Haringey Council is entitled to. The final value has yet to be formally agreed. (The operational deficit is calculated as the deficit for the year before interest and the increase in working capital in the year).
3. Haringey Council may also be entitled to indemnification for the operational deficits from 1988/89 to 1990/91, so this amount has also been provided for.

**Comments of the London Borough of Haringey Chief Financial Officer:**

**Gerald Almeroth LBH CFO has been supplied a copy of this report and provided the following comment:**

'The facts in the report in terms of the figures and timescales are correct. The treatment of the liabilities in the AP accounts are as agreed by the Attorney General, district auditor and the charity's auditors. The council would consider this position if such a request is made'

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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