

Alexandra Palace

ALEXANDRA PARK AND PALACE **CONSULTATIVE COMMITTEE** **23rd January 2018**

Report Title: Governance Review

Report of: Chief Executive

Report Authorised by: Louise Stewart, Chief Executive Officer, Alexandra Park and Palace Charitable Trust (APPCT)

Contact Officer: Natalie Layton, Executive Assistant, APPCT
Email: Natalie.layton@alexandrapalace.com , Telephone: 020 8365 4335

Purpose: To report the findings of the Trust's Governance Review and seek feedback from the Consultative Committee.

Local Government (Access to Information) Act 1985

N/A

Recommendation: The Consultative Committee is recommended to note the findings contained in this report and provide comments.

1. Background

- 1.1 The governance of any organisation, charity or otherwise, needs to be fit for its needs. Good governance ensures that the charity functions in a way that allows the executives to undertake their duties effectively, within a clear framework that supplies the board with the information they need to provide sufficient oversight. Governance also includes the relationships with and between the stakeholders and beneficiaries of the charity and their alignment with the charity's purposes and aims and their ability to influence decisions.
- 1.2 The Trust commenced a review of its Governance in 2016 in recognition that;
 - stakeholder expectations of organisational governance standards have risen in recent years from funding bodies, the charity regulator and members of the public
 - requirements of the Board are increasingly demanding and require more specialised skills and capabilities on top of the general requirements of charity trustees
 - The charity is undertaking significant restoration, repair and maintenance works and wishes to continue the current pace of development in the future it therefore needs

to be a well governed organisation that funders, donors and partners entrust resources to.

- 1.2 The review has been a significant undertaking over 18 months, involving an experienced charity secretary, external legal support, a review of documentation and past and current practices.
- 1.3 The findings of the review were discussed by the Board at a series of workshops in 2016 and 2017.
- 1.4 A short document, attached at Appendix 1, provides background information on governance and the current governance of the charity, for members of the committee who may be less familiar with the subject matter.

2.0 Current Governance arrangements summary

2.1 The current governance arrangements are:

a) The duties and functions of the Trustees are the responsibility of the Trustee, Haringey Council. Counsel's opinion was obtained on behalf of the charity in 1990, who advised that this should be treated as a reference to "the mayor and burgesses of Haringey", the municipal corporation which acts through the council, rather than the council made up of the individual councillors, which lacks legal personality.

The Trustees are (i) the Municipal Corporation i.e. the enduring legal entity behind the Council (referred to in official documents as the Mayor and Burgesses) and (ii) the councillors on the APPCT Board by virtue of their 'de facto' role in managing the charity. The other councillors are not trustees.

b) The Council, in recognition of the legal need for the Charity to operate independently, delegates its duties to a non-executive Council Sub-Committee, the Alexandra Park and Palace Charitable Trust (APPCT) Board. This is the Trustee Board and it oversees the Charity, its activities and employees. The Board is made up of selected Haringey Councillors and co-optee/observer members. Members of the Board are bound by charity law to act in the best interests of the Charity.

c) There are two external committees that advise the Board. The Advisory Committee which is statutory. Its role and remit is stated in the 1985 Act of Parliament) and is within the Council's Constitution as an external body and the Consultative Committee which is a council committee but not statutory, both of these committees are administered by the Council as council committees.

3.0 Review Findings

3.1 The governance review identified several issues that changes to governance could overcome, in the best interests of the Charity, enabling it to deliver its charitable purposes more effectively. These issues can be summarised as:

- a lack of clear and consistent leadership of the Charity, as a result of the council committee arrangement, which results in a less than optimal level of stability, continuity or depth and breadth of the required skills on the Board;
- inherent conflicts of interest exist in the governance structure which require significant management to avoid conflicts of interests and breach of trust occurring;
- the complex arrangements and lack of clarity do not give potential funders and partners the level of confidence required to attract the funding and support required to further the Charity's purposes, and;
- on a practical level the operation as a charity and a council committee is inefficient and time consuming for the Charity, using sparse resources, which could be better deployed.

3.2 The review concluded that it would be in the best interests of the Charity to:

- modernise the governance arrangements; to provide the best opportunity for the Trust to become more financially self-sustaining, achieve a skills based board, improve the Charity's engagement with its stakeholders, and deliver an appropriate level of transparency enabling the Charity to fully meet the Charity Governance Code;
- adopt a separate legal identity from the Council to better deliver the functions and operations of the charity, to allow it to operate as a clearly independent charity and allow it to appoint a skills based board;
- retain Haringey Council, as Trustee, in the best interests of the Charity.

3.3 The review suggested that the most suitable legal form for the Charity, allowed for in the Charities Act 2011, is a Charitable Company Limited by guarantee. This form of company is registered both at Companies House, as a company, and with the Charity Commission as a charity in its own right. Charitable companies must make returns and submit accounts on an annual basis to both Companies House and the Charity Commission, and must also comply with both charity and company law.

3.4 The review did not suggest:

- changes to the Alexandra Park and Palace Acts and Orders. However it is recognised that in exploring the correct legal routes to achieve governance improvements, some amendments may be necessary;
- changes to the Advisory Committee, at this point or its role and remit as specified within the Act.

3.4 It is suggested that the Consultative Committee should develop into a broader stakeholder forum, administered by the Charity.

4.0 What might be different?

4.1 In future a Board may be appointed through an open and advertised selection process according to the specified skills and capabilities the Charity needs to fulfil its duties effectively. (Depending on the legal route chosen this may be with the exception of an agreed number of appointments made by the trustee)

- The skills and expertise sought, for example, might be; historic restoration & conservation, architecture and design, property, estate and environmental management, charity finance and legal, fundraising and investment, communications, learning and participation, archive and

interpretation, and volunteering. It would also look to select individuals that did not have inherent conflicts of interest by way of any other positions held.

- Applications from people local to Haringey from a diverse socio economic, ethnic and gender background would be encouraged to ensure the Charity draws on an appropriate range of experience to assist in delivering its charitable purposes for the benefit of 'the public'.

4.2 The Consultative Committee might develop into a stakeholder forum in line with the expectations of the Charity Governance Code so that it is better able to communicate and consult with the wide range of stakeholders that have an interest in the Charity's work such as users or beneficiaries, staff, volunteers, members, donors, suppliers, local communities and others.

4.3 Although no changes are suggested to the Advisory Committee or its remit it is proposed that the Advisory Committee should take the opportunity to review how it is administered and how it operates.

4.4 The Trustee would retain specified responsibilities and reporting in place to hold the Charitable Company to account.

4.0 Benefits of the potential changes for the Charity

- Clearer roles and responsibilities for decision making about the Charity
- A more appropriate and effective model for delivering the Charity's purposes strategically and operationally
- Improved confidence in the Charity and help attract external funding
- Strengthen the Charity's ability to deliver its purposes, use its resources to better effect, to achieve greater public benefit
- Improved arrangements and reporting mechanisms to provide reassurance to the Trustee that the Charity is carrying out its responsibilities effectively
- Greater freedom to operate as a charity - the current governance arrangements are subject to a mixture of charity law and local government law
- Incorporating the Charity provides regulation and disclosure requirements appropriate for the Charity's operation, to satisfy the need to achieve public confidence in its work
- The ability to raise funding and investment would be enhanced through greater transparency of independence of the Charity from the activities of the Local Authority.

5.0 What might this mean for the Consultative Committee?

5.1 It is suggested that the Consultative Committee should adapt to better reflect the charity's stakeholders and beneficiaries.

5.2 The Consultative Committee constitution was structured to allow the appointment of members of the Consultative Committee to attend Board meetings as a non-voting members. Consultative Committee members on the Board have to work in the best interests of the Charity at all times. Their very appointment on to the current Board means that the group/s they represent on the committee and the board are not and cannot be 'represented' on the Board. This can and has placed consultative

committee members on the Board in very conflicted situations. This has been identified as an inherent conflict and is not a statutory requirement. It is therefore suggested that this would not continue in any new future arrangements.

5.3 There is nothing to prevent members of the Committee/Forum from applying to be members of the Charitable Company Board. They, like any other applicant, would need to demonstrate their suitability for the role and how they would manage any real or perceived conflicts of interest.

5.4 The review identified that the engagement of stakeholders and beneficiaries by the charity needs to be updated and improved. It is a requirement of the Charity Governance Code that,

- *The board identifies the key stakeholders with an interest in the charity's work. These might include users or beneficiaries, staff, volunteers, members, donors, suppliers, local communities and others.*
- *The board makes sure that there is a strategy for regular and effective communication with these stakeholders about the charity's purposes, values, work and achievements, including information that enables them to measure the charity's success in achieving its purposes.*
- *As part of this strategy, the board thinks about how best to communicate how the charity is governed, who the trustees are and the decisions they make.*
- *The board ensures that stakeholders have an opportunity to hold the board to account through agreed processes and routes, for example question and answer sessions.*
- *The board makes sure there is suitable consultation with stakeholders about significant changes to the charity's services or policies.*

5.4 The Board recognises the value of engagement with the Consultative Committee but it is suggested that the governance of the charity will be improved and strengthened by,

- having clearer separation between stakeholder views and the Board
- developing this stakeholder committee to a broader range of stakeholders and beneficiaries
- changing the format of engagement from structured council meetings to a more open forum
- making meetings open to the public to participate, without the need for annual registration and a need to be a constituted group to attend meetings

5.5 The onus is on the Board to make sure that there is appropriate engagement and that it should keep clear records of its engagement, issues discussed and feedback provided. We would suggest that an expanded stakeholder committee/forum should not be a constituted council committee but an open forum administered by the Trust.

5.5 The Board are keen to hear from the committee how engagement between the Board and stakeholders could be improved.

6.0 Next Steps

- 6.1 It is important to note that no decisions have been taken at this stage. The Trustee Board has discussed the findings of the review with the Trustee, Haringey Council. It has been agreed to further explore the methods by which governance improvement could be achieved including the possibility of establishing a Charitable Company Limited by Guarantee.
- 6.2 The Trust is seeking the view of the Charity Commission and obtaining formal legal advice from a local government law and charity law perspective, which includes Queen's Counsel opinion.
- 6.3 At this stage we are keen to hear the views of the Consultative Committee on the Governance review findings so that the Board can take this into consideration.
- 6.5 If it is decided to progress the proposals, it would be the intention of the Trust to undertake a formal consultation with the committee.

7. Legal Implications

- 7.1 The Council's Assistant Director of Corporate Governance has been consulted in the preparation of this report, and advises that officers within the Council's Legal Service will be integrally involved in the work required to test the viability of any alternative governance model identified for further consideration.

8. Use of Appendices

Appendix A – Summary of current governance arrangements