

Alexandra Palace

ALEXANDRA PARK AND PALACE **ADVISORY 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 Trusts Governance Review and seek feedback from the Advisory Committee.

Local Government (Access to Information) Act 1985

N/A

Recommendation: The Advisory 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 Advisory Committee?

5.1 There are no proposed changes to the Advisory Committee as stated in the Act of Parliament, at this point.

5.2 However at some point in the 1980s the Board enabled the appointment of the Chair of the Advisory Committee to attend Board meetings as a non-voting 'observer' member. This has been identified as an inherent conflict and therefore this arrangement is not suggested to continue in the future.

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

5.4 The Board recognises the value of the advice from the Committee but feels that the Governance of the Charity will be strengthened by having clearer separation between the Committee and the Board.

5.5 The Board are also keen to understand how engagement between the Board and Committee could improve, for example;

- The Charity could share its plans for the year with the Advisory Committee and identify on what issues it anticipates seeking their advice, so that there is a forward programme. This would also provide an opportunity for the Committee to raise and programme items, within its remit, that the Committee may want to advise the Board on
- For issues that come up during the year the Chair of the Board/ CEO would advise the Chair of the SAC in advance and discuss the need to seek advice and the best method of doing so
- There could be clearer record keeping of the issues on which the Board is seeking advice and its response to that advice when received. As it is the duty of the Board to seek the advice of the Committee the onus should be on the Board to ensure that this happens
- The administration of the SAC in a format other than as a council committee which can be restricting and overly formal, could be explored
- Other methods of seeking the advice of the Committee in addition to face to face meetings could be explored

5.4 The Trust is also keen to discuss how the Committee can be a more effective conduit and:

- improve the role its members perform in representing and actively engaging the broad spectrum of local residents.
- act as a more effective conduit thorough improved communication with local residents

5.5 Likewise the Trust would like to propose that members of the SAC are inducted more effectively so that their duties and responsibilities are better understood.

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 Advisory Committee on the Governance review findings and specifically receive feedback on the suggestions the effect of the draft proposals on the Committee, 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