

**COUNCIL**

## **Charitable Trust Committee – Amendments to Terms of Reference**

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**12<sup>th</sup> September 2018**

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### **Reason for Decision**

To seek approval to amend the Terms of Reference for the Charitable Trust Committee to include more additional charitable trusts in order to keep the list up-to-date.

### **Executive Summary**

The Charitable Trust Committee was established in July 2017 to discharge the Council's common law/statutory duty to act as the charitable trustee. A list of Trusts was outlined in the report, however, over the past year further properties have been identified.

### **Recommendations**

Council approves the proposed amendments outlined in Appendix 2 of the report.

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**Charitable Trust Committee – Amendments to Terms of Reference****1 Background**

- 1.1 At the meeting of Full Council on 12<sup>th</sup> July 2017, the decision was taken to establish a Charitable Trust Committee with Terms of Reference as specified in Appendix 1 to the report.
- 1.2 However, over the past year the Legal Services Team has been in the process of conducting an exercise of voluntary registration of the Council's land holds with HM Land Registry. During the course of this exercise, it has come to the attention of legal officers that there are more additional properties which are the subject of charitable trusts which were not identified in the original list of charitable assets appended to the Terms of reference. These include:
- Land at Rushcroft Road Car Park, High Crompton Park
  - New Barn Playing Fields, Crompton
  - Land on north west side, Milnrow Road, Shaw
  - Tandle Hill Park, Royton
  - Land at Turf Lane, Birchelea Street (Eli Street), Chadderton
  - Land at Huddersfield Road/Standedge Road, Diggle
  - Part of Dunwood Park, Shaw
- 1.3 It is imperative that the list of charitable trusts is kept up to date so that members and officers are aware of the existence of all of the charitable assets held by the Council and are mindful of the objectives of each trust and the Council's obligation acting as sole trustee to act in the interests of the charity when making decisions concerning charitable assets.
- 1.4 To this end it is important that all of the charitable assets are list in one place as a point of reference for members and officers.

**2 Current Position**

- 2.1 The current list of assets which are currently known to be the subject of charitable trusts is attached at Appendix 1. The updated list of charitable trusts is attached at Appendix 2.

**3 Options/Alternatives**

- 3.1 Option 1 – To include the additional assets to Terms of Reference of the Charitable Trust Committee and any further or future Trusts, bequests or arrangements where the Council is identified as the sole trustee including the consideration of matters where there is a conflict or potential conflict between the Council's interests and those of the beneficiaries of the Charitable Trusts.
- 3.2 Option 2 – Council retains its common law/statutory duty to act as Charitable Trustees in full Council for any additional assets not included in the original Terms of Reference.

**4 Preferred Option**

- 4.1 Option 1 – To include the additional assets to Terms of Reference of the Charitable Trust Committee and any further or future Trusts, bequests or arrangements where the Council is identified as the sole trustee including the consideration of matters where there is a

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conflict or potential conflict between the Council's interests and those of the beneficiaries of the Charitable Trusts.

## 5 **Consultation**

5.1 The Council is acting in its capacity as charitable trustee in this matter.

## 6 **Financial Implications**

6.1 The Council currently accounts for the trust funds included in Appendix 1 that hold cash resources as individual creditors (liabilities that the Council will need to fulfil on behalf of the relevant trust) within the Council's balance sheet and therefore any balances are not treated as Council resources.

6.2 There are no immediate financial implications arising from the approval of this report. (Lee Walsh).

## 7 **Legal Services Comments**

7.1 The Council needs to be apprised of all of the Council's assets which are the subject of charitable trusts so that it exercises its duty to act as a charitable trustee and makes decisions in the best interests of the charity.

7.2 The Council is in the process of collating all of the information with regards to each of the charities, including copies of relevant legal documents and compiling the relevant information onto a database held on a spreadsheet by the Finance Service. (Elizabeth Cunningham-Doyle)

## 8. **Co-operative Agenda**

8.1 N/A

## 9 **Human Resources Comments**

9.1 N/A

## 10 **Risk Assessments**

10.1 N/A

## 11 **IT Implications**

11.1 N/A

## 12 **Property Implications**

12.1 Property Services are aware of these charities as listed herewith and accordingly will comply with our custodial duties as a Charitable Trustee. (Peter Wood)

## 13 **Procurement Implications**

13.1 N/A

## 14 **Environmental and Health & Safety Implications**

14.1 N/A

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- 15      **Equality, community cohesion and crime implications**
- 15.1    None
- 16      **Equality Impact Assessment Completed?**
- 16.1    No
- 17      **Key Decision**
- 17.1    No
- 18      **Key Decision Reference**
- 18.1    N/A
- 19      **Background Papers**
- 19.1    None.
- 20      **Appendices**
- 20.1    Appendix 1 – List of Charitable Trust Assets
- 20.2    Appendix 2 – Amendments to the List of Charitable Trust Assets

**CURRENT TERMS OF REFERENCE OF THE CHARITABLE TRUST COMMITTEE**

To discharge the functions of the Council as set out in Part 3 to the Constitution where the Council acts as Trustee, with the functions detailed as:

To undertake the Council's role of Charitable Trustee of:

Public Open Space of Garden- Jubilee Gardens  
Werneth Park  
Sandy's Recreation  
Oldham Town Lands Playing Field & Recreation Ground  
Bardsley War Memorial  
Clayton Playing Fields  
William Mullins Legacy Fund  
Snipe Clough  
Ebenezer Particular Baptist Church Grants  
The Charles and Mary A Ward Recreation Ground  
Edward Street Gardens  
The North Moor Playgrounds  
Top O'th' Edge Recreation Ground  
Ellen Ludlam for an Open Space or Park  
King George's Field Shaw (Wren's Nest)  
Werneth Youth Centre  
Moorgate Quarry  
Lyceum  
Land @ Royton (in front of Our Lady's)

Any further or future Trusts or bequests or arrangements where the Council is identified as the sole Trustee including the consideration of matters where there is a conflict or potential conflict between the Council's interests and those of the beneficiaries of the charitable trusts and to seek independent advice in order to make decisions as and when there is a conflict or potential conflict of interests.

**2018 Additions**

- Land at Rushcroft Road Car Park, High Crompton Park
- New Barn Playing Fields, Crompton
- Land on north west side, Milnrow Road, Shaw
- Tandle Hill Park, Royton
- Land at Turf Lane, Birchelea Street (Eli Street), Chadderton
- Land at Huddersfield Road/Standedge Road, Diggle
- Part of Dunwood Park, Shaw

Any further or future Trusts or bequests or arrangements where the Council is identified as the sole Trustee including the consideration of matters where there is a conflict or potential conflict between the Council's interests and those of the beneficiaries of the charitable trusts and to seek independent advice in order to make decisions as and when there is a conflict or potential conflict of interests.