

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	FINANCE AND DEMOCRACY COMMITTEE	17 FEBRUARY 2020	6
<b>LYTHAM INSTITUTE</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The report outlines the background to the Institute being registered as a Trust and provides details of the next steps required by the Charity Commission for the Council, as the sole Trustee at present, to establish a revised objects (purpose) for the Trust, and to recommend to the Charity Commission elements to be included in the administrative parts of the Scheme.

This report is brought before the Finance & Democracy Committee which has the remit of managing land and property not specifically held for the purposes of another committee, or which is surplus to operational requirement. As the substantive interest in this property now falls within this definition the report is made to this committee to act as the Trustee to progress the proposal, consultation and approval of the required schemes.

### RECOMMENDATIONS

1. That the committee approve the proposed objects (purpose) for the Lytham Institute Trust for consultation in accordance with the Charity Commission guidelines
2. That the committee approve the request for the administrative Scheme
3. That the committee approve consultation on 1 and 2 above with the stakeholders listed in paragraph 15 of the report

### SUMMARY OF PREVIOUS DECISIONS

22 July 2019:

1. Register the Lytham Institute as a charitable trust, and then seek immediate advice and discussion with the Charity Commission on the governance and future management of the trust.
2. Open discussions with community groups and interested stakeholders to determine the most effective use of the Institute to fulfil the required objectives of the Trust.

### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	
Working with all partners ( <b>Vibrant Economy</b> )	√
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	√
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	

## REPORT

### BACKGROUND

1. The committee considered a report about Lytham Institute on 22 July 2019. That report summarised the history of the building, including its uncertain present position following the anticipated relinquishment by Lancashire County Council of its user rights following its decision to cease the operation of a library service from the Institute. The report also discussed advice from counsel about the possibility that the Institute was held by Fylde Council under charitable trusts.
2. After considering the report and counsel's advice, the committee decided to register the Institute as a charitable trust, seek advice and discussion with the Charity Commission and open discussions with community groups and interested stakeholders. See the panel above for the full text of the decision.
3. This report updates members on the present position and seeks some further direction on which to engage with the Commission.

### CURRENT POSITION

4. The application to register the Institute was made on 8 August 2019. The process was completed in December 2019. The Institute is now registered as charity no. 1186995, with Fylde Borough Council as its sole trustee<sup>1</sup>.
5. The governing document of the charity is the 1917 lease assignment which gave rise to its charitable status. The charitable objects are those set out in the assignment and are: *"to maintain the said premises and the buildings now or hereafter erected thereon for public use under the provisions of the Public Libraries Acts 1892-1901 and the Museums and Gymnasiums Act 1891 or any acts re-enacting or amending the said acts or any of them"*. The purposes of the Public Libraries Acts were the provision of *"public libraries, public museums, schools for science, art galleries and schools for art"*. The purposes of the Museums and Gymnasiums Act 1891 were the provision of *"museums for the reception of local antiquities or other objects of interest"* and gymnasiums. Both acts were repealed many years ago.

### CHANGING TRUST GOVERNANCE

6. The administrative procedures of a charity (e.g. how trustees are added or removed, how trustee meetings are run, what changes the trustees can make to the governance of the charity) are normally included in the governing document. The 1917 lease assignment does not include any governance arrangements, this is a requirement for a Trust in 2020.
7. The objects of a charity can only be changed by the Charity Commission, whilst other aspects of a governing document can be changed by the trustees if the governing document allows it. If the governing document does not allow it, other aspects can only be changed by the Commission. The Commission makes changes by making a scheme<sup>2</sup>, which replaces or amends the existing governing document.
8. Though the Commission can act of its own initiative, it will normally only make a scheme if requested by the Trustee (the Council). The committee therefore needs to decide whether to ask the Commission to make a scheme for the Institute, and (if so) what it wants to be in the request.
9. The Commission expects trustees to consult stakeholders and the public on proposed changes to be included in a scheme. The committee will therefore need to consult on its draft proposals, and consider the results of the consultation, before finalising its request for a scheme.

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<sup>1</sup> The Trustee is the council as a corporate body, not individual members or officers. Charity Commission guidance states that: *Where a local authority is a trustee of a charity, it is the corporate body, acting in accordance with its usual procedures, which is 'the trustee'. While ongoing management may be delegated to officers, responsibility for decision-making and oversight rests with the councillors (within the normal procedures of the Authority).* The 'usual procedures' for decision-making at Fylde are the committee system of governance, the Finance & Democracy committee has responsibility for assets that are surplus to the needs of the council, as such it is appropriate that the committee, acting under the authority delegated to it by the council, discharges the council's functions as act as 'the trustee' for Lytham Institute.

<sup>2</sup> There are technically two kinds of scheme. A cy-pres scheme changes charitable objects and an administrative scheme changes other aspects of a governing document. The Commission can make both kinds of scheme together where necessary. That is what we anticipate will happen regarding Lytham Institute.

## TRUST OBJECTIVES

10. The present charitable objectives of the trust need to be changed because they refer to acts of parliament that have been repealed many years ago, and because in part they relate to the running of a library, which is not one of the functions of Fylde Council, and which service is now provided by the library authority (Lancashire County Council) elsewhere in Lytham.
11. The Charity Commission has indicated that when deciding on changes to charitable objects they will have regard to:
  - a. The spirit of the original gift
  - b. The desirability of securing that the new charitable purposes are close to the original purposes
  - c. The need for the charity to have purposes which are suitable and effective in the light of current social and economic circumstances
12. The Charity Commission publishes example charity objects that it will normally base new objects around, where possible. The proposed objects / purpose for Lytham Institute, that will be subject to consultation with stakeholders, has been drafted based on the Charity Commission example for community centres and is:

***“To further or benefit the residents of Lytham and the neighbourhood, without distinction of sex, sexual orientation, race or of political, religious or other opinions by providing facilities in the interests of social welfare for learning, recreation and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.***

***In furtherance of these objects but not otherwise, the trustees shall have power to maintain or manage or co-operate with any statutory authority in the maintenance and management of the Lytham Institute building or other appropriate premises for activities promoted by the charity in furtherance of the above objects.”***

## TRUST ADMINISTRATION

13. The Charity Commission will determine the administrative provisions in a scheme based on best practice within the Commission however the committee is asked to approve for consultation the following: that the administrative parts of the scheme should include the ability for the council to appoint additional trustees; and if it does, the scheme should provide the normal administrative provisions for trust meetings, appointment and removal of trustees, as well as a provision as to how the council is to be represented at trust meetings if further trustees were appointed.

## CONSULTATION

14. In view of the interest in the charity and the use of the Institute, the Commission has stressed the need to conduct a suitable consultation exercise before proceeding with the scheme application. The consultation exercise should seek the views of those who would be affected by or might have an interest in the changes proposed. The council will be expected to provide details of what consultation has been carried out and a summary of any responses received. It will also need to explain how this has helped inform its decision-making. Consultation will be carried out in accordance with the guidance produced by the Charity Commission.
15. Consultation is proposed to be undertaken with the following groups, with consultation to end by 30 March 2020:
  - a. Current occupants of the Institute (direct engagement)
  - b. Current customers using the Hewitt Lecture Room (direct engagement)
  - c. Interested local community groups and organisations (direct engagement)
  - d. The general public (online representations)

16. Members are asked to approve the proposed objects and recommendations for the administration of the trust for consultation, with the results of the consultation reported back to the committee for consideration prior to submission to the Charity Commission.

IMPLICATIONS	
Finance	None arising from the report
Legal	Section 88 of the Local Government Act 1972
Community Safety	None arising from this report
Human Rights and Equalities	None arising from this report
Sustainability and Environmental Impact	None arising from this report
Health & Safety and Risk Management	None arising from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Letter from the Charity Commission	16 December 2019	Town Hall, Lytham St Annes
Charity Commission operational guidance	Last accessed 23 January 2020	<a href="http://ogs.charitycommission.gov.uk/g500a001.aspx">http://ogs.charitycommission.gov.uk/g500a001.aspx</a>

## Appendix 1: Cy-pres & Administrative Scheme Proposals for Consultation

The proposed objects / purpose for Lytham Institute: The Cy-Pres Scheme

***“To further or benefit the residents of Lytham and the neighbourhood, without distinction of sex, sexual orientation, race or of political, religious or other opinions by providing facilities in the interests of social welfare for learning, recreation and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.***

***In furtherance of these objects but not otherwise, the trustees shall have power to maintain or manage or co-operate with any statutory authority in the maintenance and management of the Lytham Institute building or other appropriate premises for activities promoted by the charity in furtherance of the above objects.”***

### **Proposed request for the Administrative Scheme:**

*That the administrative parts of the scheme should include the ability for the council to appoint additional trustees; and if it does, the scheme should provide the normal administrative provisions for trust meetings, appointment and removal of trustees, as well as a provision as to how the council is to be represented at trust meetings if further trustees were appointed.*