

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF GOVERNANCE	EXECUTIVE COMMITTEE	30 JANUARY 2024	9
LYTHAM INSTITUTE			

PUBLIC ITEM

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

RELEVANT LEAD MEMBER

This item is within the remit of the Lead Member for Corporate and Economic Development, Councillor Karen Buckley, and the Lead Member for Tourism, Leisure and Culture, Councillor Jayne Nixon.

PURPOSE OF THIS REPORT

The report concerns the Charity Commission's decision on the objectives and governance of the Lytham Institute charity, of which the council is the sole trustee. After receiving 107 representations to its consultation, the Commission has made a scheme which replaces the previous outdated objectives. The report sets out the new objective and summarises the decision notice and accompanying advice note. With the new objective now in effect, the report invites the committee to institute consultation about the charity's future structure and governance.

RECOVERABILITY

This decision is recoverable under section 5 of part 3 of the constitution.

RECOMMENDATIONS

The committee identifies ways in which it wishes to seek the views of users of the Institute, beneficiaries and other relevant stakeholders about the future of the Institute, and how the structure and governance of the charity should evolve following the publication of the Commission's decision.

REPORT

CHARITY COMMISSION CONSULTATION AND DECISION

1. The council is the sole trustee of Lytham Institute, which is a registered charity. During the spring of 2022, the Charity Commission undertook formal consultation on a draft scheme to change the objectives of the charity. The existing objectives were based on now-repealed legislation from the late 19th and early 20th centuries and related to purposes that are now provided adequately by other means.

2. The Commission received 107 representations in response to its consultation. It is likely¹ that many of the representations argued that the replacement objective should include the preservation of the Institute building for its own sake.
3. The Commission issued its decision on 13 December last year. The decision notice and the formal scheme are appended to this report, along with an advice note that was issued by the Commission with the decision notice.
4. The scheme now forms the governing document of the charity, replacing the previous governing document, which was an indenture dated 29 September 1917. The charitable objectives set out in that indenture are replaced by the charitable objective set out in clause 4(1) of the scheme, which 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 education, recreation, and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.

5. The decision notice and the advice note are summarised below for quick reference. However, members will want to familiarise themselves with the full text of the documents.

SUMMARY OF THE DECISION NOTICE

6. The document is a review by the Charity Commission of whether to make a scheme to alter the purposes and governance of the Lytham Institute, a registered charity. The scheme would change the charity's purposes from operating a library, museum, or gymnasium to operating a community centre. As the objective is to benefit the residents of Lytham and its neighbourhood, any facility provided by the charity would need to be in that area but would not need to be provided from the existing Institute building.
7. The review concludes that the 1917 charitable purposes have been adequately provided by other means, meeting the legal test for changing the charity's purposes. The proposed new purposes of operating a community centre are suitably close to the original purposes and meet current needs. However, concerns were raised about a local authority being sole trustee, so the scheme requires independent trustees, or an independent committee, to make certain key decisions.
8. The review carefully considered whether preserving the Institute building was part of the charity's original spirit and purposes. It concludes this was not the case - the focus was on providing facilities for recreation and education rather than preserving a particular building. However, additional safeguards have been added requiring independent involvement in any decision to sell the building.
9. Over 100 representations about the draft scheme were considered as part of the review. Most raised concerns about the potential sale of the building, the suitability of the consultation process, and the council acting as sole trustee. The review concludes the scheme can proceed with amendments to address the most serious concerns through requiring independent involvement in key decisions.

SUMMARY OF THE ADVICE NOTE

10. The letter advises the trustee to follow the Commission's guidance on managing conflicts of interest given concerns raised about a local authority acting as sole trustee. It suggests ways independent perspectives could be included such as new trustees, committees or advisory groups. It also advises taking legal advice on governance options.
11. The letter highlights the need for separate finances, policies and decision making solely focused on the charity's interests. It encourages further consultation with beneficiaries when making decisions about using the building and ensuring the charity's financial security.
12. The authorised scheme is now legally in effect as the governing document. The trustee is expected to follow the advice in the letter to comply with legal duties, act in the best interests of the charity and address concerns raised during the consultation. Further guidance is provided on amending the scheme, decision making principles and managing conflicts of interest.

¹ Representations made to the Commission in response to its consultation were not shared with the council. However, it is clear both from the Commission's decision letter and from the council's own informal consultation prior to the initial request for the Commission to consider making a scheme that many members of the community were and remain concerned with the preservation of the building for its own sake.

NEXT STEPS

13. Members are reminded that the council must manage the charity for the purposes of the charity's objectives and in accordance with the detailed framework of charity law. The council's corporate priorities, together with any political priorities, must not be considered. Nor can public pressure, including public pressure to take decisions that prioritise the retention of the Institute building over the charitable objectives.
14. Now that the new charitable objectives are in place, it would be appropriate for there to be consultation with all relevant stakeholders about the future structure of the charity. This could cover such matters as whether additional trustees should be appointed alongside, or even instead of², the council, how any such trustees should be selected, and the governance and administrative structures that would be needed to support the charity³. Any new trustees would have the same responsibilities as a trustee as does the council.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report.
Legal	The return and reports are required to be submitted each year by every charity, unless exempt.
Community Safety	None
Human Rights and Equalities	None.
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None.

SUMMARY OF PREVIOUS DECISIONS
Finance & Democracy Committee 22 July 2019 Finance & Democracy Committee 17 Feb 2020 Council 9 Mar 2020 Finance & Democracy Committee 25 Jan 2021 Finance & Democracy Committee 7 Oct 2021 Finance & Democracy Committee 24 Jan 2022 Finance & Democracy Committee 30 Jan 2023

BACKGROUND PAPERS RELEVANT TO THIS ITEM		
Name of document	Date	Where available for inspection

² The Charity Commission has confirmed in correspondence that there is no requirement for the council to remain as trustee if other trustees are appointed and the council does not wish to continue.

³ Such changes to the governing document can be made by the trustees under powers in the Charities Act 2011.

Charity Commission decision notice	5 December 2023	Appended to this report
Charity Commission scheme	5 December 2023	Appended to this report
Charity Commission advice note	5 December 2023	Appended to this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	Email & Tel 01253 658506	2 January 2024

Attached documents.

Appendix 1 - Charity Commission decision notice

Appendix 2 - Charity Commission scheme

Appendix 3 - Charity Commission advice note.