

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

COUNCIL AS TRUSTEE

**TUESDAY, 13 SEPTEMBER 2016 AT 00:00 HOURS
IN COUNCIL CHAMBER. PLEASE NOTE THAT THIS MEETING
WILL BE HELD AT APPROXIMATELY 1800 HOURS AT THE
CONCLUSION OF THE CITY COUNCIL MEETING BEING HELD
BEFORE IT., [VENUE ADDRESS]**

A G E N D A

1 NOTICE OF RECORDING

Lord Mayor to advise that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.birminghamnewsroom.com) and that members of the press/public may record and take photographs.

The whole of the meeting will be filmed except where there are confidential or exempt items.

3 - 6

2 MINUTES

To Confirm and authorise the signing of the Minutes of the Meeting of the Council as Trustee held on 6 January 2015

7 - 18

3 FORMATION OF THE YOUNG ACTIVE TRAVEL CHARITABLE TRUST

15 Minutes allocated

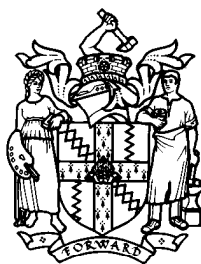
To consider a report of the Chair of the Trust and Charities Committee.

Councillor Habib Rehman to Move the Following Motion:-

"That Full Council sitting as 'Council as Trustee:

- 1) Notes and approves the formation of the Young Active Travel in Birmingham Charity as set out within the Trust Deed at Appendix 1;
- 2) Instructs officers with Finance and Legal Services to register the Charity with the Charity Commission when appropriate;

3) Instructs officers within Finance and Legal Services to draft a Mechanics of Grant Funding on behalf of the Charity for the approval of the Trusts and Charities Committee at its next Meeting.



COUNCIL AS TRUSTEE 4 MARCH 2014
--

**MINUTES OF A MEETING OF THE
COUNCIL AS TRUSTEE COMMITTEE
HELD ON TUESDAY 6 JANUARY 2015
AT 1345 HOURS IN THE COUNCIL CHAMBER,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT:- Lord Mayor (Councillor Shafique Shah) in the Chair.

Councillors

Muhammad Afzal	Mick Finnegan	James McKay
Uzma Ahmed	Eddie Freeman	Gareth Moore
Mohammed Aikhlaq	Peter Griffiths	Yvonne Mosquito
Deirdre Alden	Paulette Hamilton	Brett O'Reilly
John Alden	Roger Harmer	David Pears
Robert Alden	Kath Hartley	Eva Phillips
Tahir Ali	Ray Hassall	Jess Phillips
Sue Anderson	Barry Henley	Robert Pocock
Gurdial Singh Atwal	Penny Holbrook	Victoria Quinn
Mohammed Azim	Jon Hunt	Hendrina Quinnen
Caroline Badley	Mahmood Hussain	Chauhdry Rashid
Susan Barnett	James Hutchings	Habib Rehman
David Barrie	Timothy Huxtable	Carl Rice
Vivienne Barton	Mohammed Idrees	Fergus Robinson
Bob Beauchamp	Zafar Iqbal	Gary Sambrook
Sir Albert Bore	Ziaul Islam	Valerie Seabright
Randal Brew	Barbara Jackson	Rob Sealey
Marje Bridle	Kerry Jenkins	Mike Sharpe
Mick Brown	Meirion Jenkins	Sybil Spence
Alex Buchanan	Brigid Jones	Claire Spencer
Sam Burden	Carol Jones	Stewart Stacey
Andy Cartwright	Josh Jones	Ron Storer
Tristan Chatfield	Peter Kane	Sharon Thompson
Zaker Choudhry	Nagina Kauser	Paul Tilsley
John Clancy	Tony Kennedy	Karen Trench
Lynda Clinton	Ansar Ali Khan	Lisa Trickett
Lyn Collin	Changese Khan	Anne Underwood
Maureen Cornish	Mariam Khan	Margaret Waddington

Council as Trustee – 6 January 2015

Reg Corns	Narinder Kooner	Phil Walkling
John Cotton	Chaman Lal	Anita Ward
Phil Davis	Mike Leddy	Ian Ward
Adrian Delaney	Bruce Lines	Mike Ward
Peter Douglas Osborn	John Lines	Eliane Williams
Barbara Dring	Keith Linnecor	Fiona Williams
Neil Eustace	Ewan Mackay	Ken Wood
Jerry Evans	Majid Mahmood	Waseem Zaffar
Mohammed Fazal	Karen McCarthy	

NOTICE OF RECORDING

- 10 The Lord Mayor advised that the meeting would be webcast for live and subsequent broadcasting via the Council's internet site and that members of the Press/Public may record and take photographs.

The whole of the meeting would be filmed except where they were confidential or exempt items.

MINUTES OF LAST MEETING

- 11 **RESOLVED:-**

That the Minutes of the meeting of Council as Trustee held on 4 March 2014, having been printed and a copy sent to each Member of the Council, be taken as read and confirmed and signed.

A MULTIPLE REPORT FOR DECISION BY COUNCIL AS TRUSTEE

The following report of the Trusts and Charities Committee was submitted:-

(See document No. 1)

Councillor Philip Davis moved the motion which was seconded.

A short debate ensued to which Councillor Davis replied.

The Motion was put to the vote and by a show of hands was declared to be carried.

- 12 **RESOLVED:-**

Motion 1

Bockleton Field Study Trust- Disposal of Swingley Pool and Garden Sling

- A. Approves the disposal of the Swingley Pool and Garden Sling areas which is designated land and to facilitate this the making of appropriate applications to the Charity Commission to seek a Scheme giving powers for disposal and to enable the Trust to be wound up and the assets of the trust to be transferred to another charity with comparable objects/purposes.
- B. (1) that the terms of any disposal be delegated to the Director of Property including the appointment of external valuers as appropriate and;

(2) that the Director of Legal & Democratic Services be authorised to prepare, negotiate, execute, seal and complete all necessary documentation, including the making of applications to the Charity Commission for any purposes required to give effect to the above decisions and also to place any formal advertisements required under either s123(a) of the Local Government Act 1972 or the various statutes as may relate to the charitable status of the land.

Motion 2

Transfer of assets from the dormant W J Loxley Charitable Trust to The Birmingham Municipal Charity

- A. Approves the transfer of W. J. Loxley Trust's assets, namely a cash balance of £7,743 into the Birmingham Municipal Charity permanent endowment fund.
- B. The Director of Legal and Democratic Services and the Director of Finance be authorised to prepare, negotiate, execute, seal and complete all necessary documentation to give effect to the above decision in accordance with charitable law, and guidance issued by the Charity Commission.

The meeting ended at 1358 hours.

.....
CHAIRMAN

REPORT OF THE CHAIR OF THE TRUSTS AND CHARITIES COMMITTEE
ON THE FORMATION OF THE YOUNG ACTIVE TRAVEL CHARITABLE TRUST

1. PURPOSE/SUMMARY

To seek formal approval from Council as Trustee to the Motion set out below proposing the establishment of a new charitable trust of which Birmingham City Council is Sole Corporate Trustee.

2. BACKGROUND

Legal & Governance Arrangements

The City Council is already Sole Corporate Trustee for a number of charitable trusts ("charities"). The day-to-day management of these charities is delegated to the Council's Trusts & Charities Committee.

Each charity is governed by the Deed under which it was established, and/or a Charity Commission Scheme. These documents set out the Trustees' powers, as well as the objects or purposes for which the charitable trust was created.

Assets held in trust by a charity are ultimately for the benefit of the public (beneficiaries). Any dealing in these assets, and any income derived from them, is legally required to be dealt with and accounted for separately from the Corporate Property Portfolio/assets of the City Council. Charities must be managed in accordance with the objectives and rules laid down in their Trust documents.

It is the legal duty of Trustees to ensure that the charity is managed in accordance with the Trust objectives and, accordingly, there is a legal duty upon the City Council when it acts as the Sole Corporate Trustee. This duty extends to acting in the best interests of the charity and its beneficiaries at all times or making decisions which are expedient in the interests of the charity (as opposed to the City Council).

All charity Trustees also have a legal duty to avoid conflicts of interest, and self-dealing (which prohibits a trustee from buying trust property and makes a sale by a trustee to himself voidable by any beneficiary). All decisions made by Council's Trusts and Charities Committee are subject to prior review by the Council's City Solicitor and Monitoring Officer to ensure that decisions are made in accordance with charity law having regard to any relevant Charity Commission guidance.

3. YOUNG ACTIVE TRAVEL IN BIRMINGHAM CHARITY

Background

The Council's Young Active Travel initiative is an attempt to pull together cross-cutting policy objectives around improving children's health, achieving "behaviour change" around transport choices, and addressing environmental and road safety concerns. It seeks to encourage parents and pupils to adopt more sustainable ways of travelling to school and reduce car journeys, improving not only their own health but that of the wider community – with reduced road danger, less air pollution from cars and less traffic congestion in local neighbourhoods – particularly around school gates.

The Council has already invested in a wide range of measures to make it safer, easier, and more pleasant for children to walk or cycle to school including, for example, the roll out of 20 mph speed limits; road humps and other traffic calming designs; light controlled pedestrian crossings; and the development of bicycle and walking routes.

The Council is now encouraging schools to take the initiative to review their School Travel Plans through the ModeShift STARS online package, involving children in developing solutions appropriate to their neighbourhood, with support from parents and partners – the thinking being that long term behaviour change will start with children and young people themselves. The downstream benefits that may be achieved from fitter and healthier school populations include children arriving at school more alert and ready to learn, and suffering less absence related to avoidable health conditions.

The City Council is taking a number of steps to further this objective:

- the Council's Transportation Behaviour Change Team has developed an on-line Young Active Travel toolkit to bring together in one easily accessible place all the available information, statistics, contacts and "good ideas" including, for example, child obesity and asthma rates, cycling and walking routes, and road safety education resources;
- the Council will also host a Schools Council Summit in October 2016 to launch Young Active Travel and directly engage children with the initiative;
- with this report, as promised, the Council is establishing a Trust to secure and maximise donations and sponsorship to support steps to develop and implement measures around sustainable travel to school and road safety;
- recognising that School Crossing Wardens may be an important element of School Travel Plans, the Council is making available a budget resource of £750k in 2017/18 to ensure the on-going provision of a service in areas of highest priority, in partnership with schools.

The Charity

The charity will be an unincorporated charitable organisation, with objects/purposes around promoting and raising funds to further sustainable travel to and from school, and children's road safety within the City of Birmingham. The City Council will be the Sole Corporate Trustee and the Trust will be managed by the Council's Trusts and Charities Committee.

Charity Finances

An initial start-up endowment will be made by the Council from the resources made available in 2016/17 (proposed £75k). It is hoped this sum will be supplemented by £25k sponsorship from a household-name national company, with whom discussions are at an advanced stage.

The Trust may choose to grow the initial endowment by employing a professional fund raiser to promote the Trust, secure donations from private individuals and businesses, and design and manage a donor recognition scheme.

Grant Applications & Funding

Schools and groups of parents will be able to apply to the Trust for grants (initially up to £1,000 per application, depending on the unrestricted balances available to the Trust at the time). These grants will be available to support the development and implementation of School Travel Plans, and fund initiatives to encourage travel behaviour change and/or measures to improve children's safety as they travel to and from school e.g. fluorescent tabards for "walking buses", children's road safety training sessions, training for staff and parents; bespoke mapping; or publicity materials and signage.

A scheme of delegations to officers within Finance & Legal Services will allow day to day management of grant awards to be undertaken on behalf of the Trusts and Charities Committee. The Committee will resolve to approve an appropriate Mechanics of Grant Funding Protocol, which sets out the process of applying for funding, the criteria applicants must satisfy and evidence of public benefit.

4. MOTIONS

That Full Council sitting as 'Council as Trustee':

- 1) Notes and approves the formation of the Young Active Travel in Birmingham Charity as set out within the Trust Deed at Appendix 1;
- 2) Instructs officers with Finance and Legal Services to register the Charity with the Charity Commission when appropriate;
- 3) Instructs officers within Finance and Legal Services to draft a Mechanics of Grant Funding on behalf of the Charity for the approval of the Trusts and Charities Committee at its next Committee Meeting

Appendix

1. Trust Deed - Young Active Trust in Birmingham

Chairman of the Trusts and Charities Committee

.....
Councillor Habib UL Rehman

DRAFT TRUST DEED FOR

YOUNG ACTIVE TRAVEL IN BIRMINGHAM

A CHARITABLE TRUST

THIS TRUST DEED made by Birmingham City Council

The Trustee:

(1) Birmingham City Council

WITNESSES AS FOLLOWS:

1. INTRODUCTION

- 1.1 The Trustee wishes to encourage behaviour change around modes of travel to and from schools within Birmingham to reduce car journeys, thereby promoting children's health through active travel and reduced environmental pollution, traffic congestion, and road danger, particularly near schools.
- 1.2 The Trustee seeks to support initiatives which encourage parents, pupils and staff to adopt more sustainable ways of travelling to school by providing financial support by way of grant funding to schools and groups of parents within Birmingham.
- 1.3 The Trustee has secured the sum of £100,000.00 [one hundred thousand pounds] as the initial fund to be applied in furthering the objects and purposes of the Charity. This income is available for immediate use.

2. NAME AND OBJECTS AND PURPOSES

2.1 The name of the Charity is Young Active Travel in Birmingham Charity (or any other name chosen by resolution of the Trustee).

2.2 The objects and purposes of the Charity are to preserve and protect public health, particularly the health of school-children in Birmingham by:-

- i) supporting initiatives which raise awareness about road safety, health, exercise and fitness;
- ii) changing behaviours towards travel to school

2.3 The Trustee must use the income and may use the capital of the Charity in promoting the objects and purposes of the Charity.

3. POWERS

The Trustee has the following powers, which **may** be exercised only in promoting the Objects and Purposes:

- 3.1 To promote and/or procure education and training.
- 3.2 To carry out or support research.
- 3.3 To provide financial assistance.
- 3.4 To publish or distribute information.
- 3.5 To co-operate with other bodies.
- 3.6 To support, administer or set up other charities.
- 3.7 To raise funds (but not by means of Taxable Trading).
- 3.8 To borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Act).
- 3.9 To acquire or hire property of any kind.

- 3.10 To let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act).
- 3.11 To make grants or loans of money and to give guarantees.
- 3.12 To set aside funds for special purposes or as reserves against future expenditure
- 3.13 To deposit or invest funds in any manner (but to invest only after obtaining such advice from a Financial Expert as the Trustee considers necessary and having regard to the suitability of investments and the need for diversification).
- 3.14 To delegate the management of investments to a Financial Expert, but only on terms that:
- (1) the investment policy is recorded in writing for the Financial Expert by the Trustee;
 - (2) every transaction is reported promptly to the Trustee;
 - (3) the performance of the investments is reviewed regularly with the Trustee;
 - (4) the Trustee is entitled to cancel the delegation arrangement at any time;
 - (5) the investment policy and the delegation arrangement are reviewed at least once a Year;
 - (6) all payments due to the Financial Expert are on a scale or at a level which is agreed in advance and are reported promptly to the Trustee on receipt;
 - (7) the Financial Expert must not do anything outside the powers of the Trustee.
- 3.15 To insure any such property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required
- 3.16 To employ paid or unpaid agents, staff or advisers.
- 3.17 To enter into contracts to provide services to or on behalf of other bodies.

- 3.18 To establish or acquire subsidiary companies to assist or act as agents for the Charity.
- 3.19 To pay the costs of forming the Charity.
- 3.20 To do anything else within the law which promotes or helps to promote the Objects and Purposes of this Charity.
- 3.21 Power to delegate the performance of any act, including the exercise of any power or discretion, to a Committee. The Trustee must exercise reasonable supervision over the Committee and the Committee must promptly report their acts and proceedings to the Trustee. The Committee must not incur expenditure on behalf of the charity except in accordance with a budget previously agreed by the Trustee.

4. PROCEEDINGS OF TRUSTEE

- 4.1 Meetings of the Trustee are regulated in accordance with the meetings of the Council's Trusts and Charities Committee. This Committee is responsible for determining the day to day management and decisions of any charity where the Council is Sole Corporate Trustee.

5. DECISION-MAKING

The Trustee has the following procedural powers in relation to decision-making:

- 5.1 To make regulations consistent with this Deed to govern the administration of the Charity including the use and application of the income, any such property and funds, the operation of bank accounts and the commitment of funds.

6. BENEFITS TO TRUSTEE

- 6.1 The Property and funds of the Charity must only be used for promoting Objects and Purposes of the Charity and do not belong to the Trustee.

7. PROPERTY AND FUNDS

- 7.1 Funds which are not required for immediate use (including those which will be required for use at a future date) must be placed on deposit or invested in accordance with clause 3.12 until needed
- 7.2 Investments and other property of the Charity may be held:
- (1) in the name of the Trustee;
 - (2) in the name of a Trust Corporation as a Holding Trustee for the Charity which must be appointed (and may be removed) by deed executed by the Trustee.

8. RECORDS & ACCOUNTS

- 8.1 The Trustee must comply with the requirements of the Charities Act as to the keeping of financial records, the audit or independent examination of the accounts and the preparation and transmission to the Commission of:
- (1) annual returns;
 - (2) annual reports; and
 - (3) annual statements of account.
- 8.2 The Trustee must maintain proper records of:
- (1) all proceedings at meetings of the Trustee;
 - (2) all reports of committees; and
 - (3) all professional advice obtained.

9. AMENDMENTS

- 9.1 No amendment is valid if it would make a Fundamental Change to the Objects and Purposes or to this clause or destroy the charitable status of the Charity.
- 9.2 Clause 2.2 and 11 may not be amended without the prior written consent of the Commission.

10. AMALGAMATION

- 10.1 The Trustee may at any time on a resolution passed by the Trustee transfer the assets and liabilities of the Charity to another charity.
- 10.2 The transferee Charity must be established for exclusively charitable purposes within, the same as or similar to the Objects and Purposes set out herein.
- 10.3 On a transfer under clause 10.1 the Trustee must ensure that all necessary steps are taken as to:
- (1) the transfer of land and other property;
 - (2) the novation of contracts of employment and the transfer of any pension rights; and
 - (3) the trusteeship of any property held for special purposes.

11. DISSOLUTION

- 11.1 The Trustee may at any time decide by resolution passed by the Trustee that the Charity is to be dissolved. The Trustee will then be responsible for the orderly winding up of the Charity's affairs.
- 11.2 After making provision for all outstanding liabilities of the Charity, the Trustee must apply the remaining property and funds in one or more of the following ways:

- (1) by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects;
- (2) directly for the Objects or charitable purposes within or similar to the Objects; or
- (3) in such other manner consistent with charitable status as the Commission approves in writing in advance.

11.3 A final report and statement of account relating to the Charity must be sent to the Commission

12. INTERPRETATION

In this Deed:

12.1 The following expressions have the following meanings:

‘the Charities Act’ means the Charities Acts 1993 and 2006;

‘the Charity’ means the charitable trust created and governed by this Deed;

‘the Commission’ means the Charity Commission for England and Wales or any body which replaces it;

‘Financial Expert’ means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;

‘the Trustee’ means the party to this Deed;

‘Fundamental Change’ means such a change as would not have been within the reasonable contemplation of a person making a donation to the Charity;

‘Holding Trustee’ means an individual or corporate body responsible for holding the title to property but not authorised to make any decisions relating to its use, investment or disposal;

‘the Objects’ means the charitable objects set out in clause 2;

'Taxable Trading' means carrying on a trade or business for the principal purpose of raising funds, and not for the purpose of actually carrying out the Objects, the profits of which are liable to income tax;

'Trust Corporation' has the meaning prescribed by section 205(1)(xxviii) of the Law of Property Act 1925 but does not include the Public Trustee;

'Trustee' means a trustee of the Charity.

'written' or 'in writing' refers to a legible document on paper or a document sent by electronic means which is capable of being printed out on paper;

'Year' means calendar year;

12.2 References to an Act of Parliament are references to the Act as amended or re-enacted from time to time and to any subordinate legislation made under it.

IN WITNESS of the above the Trustee has executed this Deed dated the day of September 2016.

SIGNED AS A DEED BY

Cllr Carl Rice

Lord Mayor of Birmingham

The seal of

Birmingham City Council

was hereunto affixed by