

## BIRMINGHAM CITY COUNCIL

MEETING OF THE JOHN BILLINGSLEY THE ELDER CHARITY TUESDAY 6 JANUARY 2015 1030 HOURS
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**MINUTES OF THE MEETING OF THE JOHN BILLINGSLEY  
THE ELDER TRUST HELD ON TUESDAY 6 JANUARY 2015  
AT 1030 HOURS AT HMS DARING ROOM, COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:**

Trustees

Councillor Mike Ward (MW)  
Councillor Lyn Collin (LC)  
Councillor Anne Underwood (AU)

**ALSO PRESENT:**

Officers

Mark Szurminski (MS), Corporate Finance & Audit  
Audit Leigh Nash (LN), Corporate Finance & Audit  
Sanjeev Bhopal (SKB) – Legal & Democratic Services

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**DECLARATION TO ACCEPTANCE AND WILLINGNESS TO ACT**

Prior to the start of the meeting all the nominated Trustees signed the Declaration to Acceptance and Willingness to Act as Trustees of the Charity, in accordance with **Clause 6** of Charity Commission Scheme dated the 1 July 1910 (the "Scheme") – see attached at Appendix 1.

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001 **APOLOGIES & QUORUM**

There shall be quorum for a meeting when three Trustees are present in accordance with **Clause 12** of the "Scheme".

All Trustees were recorded as present at the meeting.

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002 **APPOINTMENT OF CHAIRMAN**

Councillor Anne Underwood was nominated and seconded (by the other Trustees) to act as Chairman for the Meeting in accordance with **Clause 10** of the "Scheme".

**RESOLVED:**

- i) Councillor Anne Underwood was duly appointed as Chairman for the Meeting of the Charity
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003 **TRUST GOVERNING DOCUMENT**

Mr Bhopal referred the Trustees to charity's Constitution, as set out within the "Scheme", see attached at Appendix 2. The "Scheme" was noted by the Trustees.

**RESOLVED:**

- i) The Charity Commission Scheme dated 1 July 1910 was noted by the Trustees
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004 **FINANCIAL UPDATE**

Ms Nash presented the Trustees with a Financial Report in respect of the Charities Finances up to the 31 March 2014.

The charity's Fixed Assets consisting of Investments total £2,099.79 (General Fund) as against a balance of £2,095.08 for the previous year.

**RESOLVED:**

- i) The Financial Update was noted by the Trustees
  - ii) The Trustees approved the Accounts for the period up to 31 March 2014, and authorised officers to submit the charity's Annual Update/Annual Return to the Charity Commission.
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005 **SUPPORT COSTS CHARGES**

Mr Szurminski, referred the Trustees to a Report which had been presented to the Council's Trusts and Charities Committee 23 July 2014. He rehearsed the background to the Report as set out within Section 4. The Council's current financial position is such that it cannot afford to continue providing officer support for the provision of legal services, property transactions, finance support or administration to its charity's free of charge.

Officers supporting the Trusts and Charities Committee had completed an exercise to quantify the value of services provided to various charities, and had estimated that the annual cost of providing support to John Billingsley The Elder Charity would be £1,700.00 if the charity agreed to the cost of provision. Alternatives were also mooted as part of these discussions, principally, finding other organisations that may be in a position to assist the charity.

The Trustees were collectively concerned that the estimate was so high, and reasonably expected this figure to be nearer £600-700 per annum for the same level of service.

**RESOLVED:**

- i) The Support Costs Charges Report to the Trusts and Charities Committee dated the 23 July 2014 was noted by the Trustees.

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006 **WINDING UP OF THE CHARITY AND TRANSFER OF ASSETS TO BIRMINGHAM MUNICIPAL CHARITY**

Mr Bhopal set out the circumstances under which the Trustees could consider closing charity, these included:-

- i) a merger with another charity;
- ii) the original purpose has been met or is no longer relevant, for example treating a disease that has since been eradicated in the area the charity serves
- iii) losing funds or funding
- iv) a lack of members
- v) becoming a company or charitable incorporated organisation (CIO), which means creating a separate charity

If the Trustees concluded that the charity was not financially sustainable in light of the matters which they had considered at the meeting or incapable of fulfilling its objects/purposes, they could seek to pass a Resolution to transfer all property of the charity to another charity under the provisions and powers of Part 13 Charities Act 2011 (the "Act"), in the absence of a specific provision to do so under the "Scheme".

To exercise their power under the "Act", the Trustees must be satisfied that:

- i) it is expedient in the interests of furthering the purposes for which the property is held by the transferor charity for the property to be transferred in accordance with the Resolution; AND,
- ii) that the purposes (or any of the purposes) of any charity to which property is to be transferred under the Resolution are substantially similar to the purposes (or any of the purposes) of the transferor charity.

Any resolution such Resolution must be passed by a majority of not less than two-thirds of the charity trustees who vote on the Resolution. If so, a copy of the Resolution must be sent to the Charity Commission, together with a statement of the reasons in support of passing it.

Mr Szurminski, provided the Trustees with some background to the Council's Birmingham Municipal Charity ("BMC"), the Constitution of which was tabled at meeting. The BMC had very broad charitable objects for "general charitable activity for the benefit and on behalf of, the citizens of Birmingham", and therefore was a suitable recipient charity, if the Trustees agreed to transfer its assets to it. Authority had been sought from the Chairman of the Trusts and Charities Committee, Cllr Phil Davis to accept the assets of the charity into the BMC. These funds would be placed into the unrestricted balance of BMC, and therefore was immediately capable of being distributed to those applicants who qualified for support from the BMC under its qualifying criteria.

The Trustees then proceeded to discuss the viability of the charity in light of the

matters raised above. It was concluded by the Trustees that the charity should be wound up and its assets transferred to the Birmingham Municipal Charity because they felt that the Charity was:

- (i) Not financially viable;
- (ii) The proposed cost of administration was not justified;
- (iii) Dormant;
- (iv) Not fulfilling its charitable objectives;
- (v) The BMC provided the Charity with the best opportunity to undertake charitable activity given its very broad objects and purposes.

**RESOLVED:**

- i) The guidance provided by officers was noted by the Trustees;
- ii) Subject to the acceptance of the Trusts and Charities Committee of Birmingham City Council and Charity Commission approval in respect of the same, this meeting resolves that the assets of Charity be transferred to Birmingham Municipal Charity, and the Charity be wound up.

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007 **ANY OTHER BUSINESS**

None

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The meeting ended at 1125 hours

*D. A. Underwood*

Chairman