

<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b>	<b>Director of Finance</b>
<b>Date of Decision:</b>	<b>17 DECEMBER 2015</b>
<b>SUBJECT:</b>	<b>ANNUAL REPORT &amp; ACCOUNTS – 2014/15 MOSELEY ROAD COMMUNITY CENTRE ("FRIENDS INSTITUTE")</b>
<b>Wards affected:</b>	<b>All</b>

**1. Purpose of report:**

- 1.1 To present for information the Annual Report and Accounts for Friends Institute for the financial year ending 31 March 2015.

**2. Decision(s) recommended:**

- 2.1 That Committee is receiving this report for information as Custodian Trustee and is asked to note the attached Annual Report and Accounts.

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**3. Compliance Issues:**

Consultation should include those that have an interest in the decisions recommended

3.1 Internal

The Chairman of the Committee has been consulted in the preparation of this report.

3.2 External

N/A

**4. Compliance Issues:**4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

N/A

4.2 Financial Implications  
(Will decisions be carried out within existing finance and Resources?)  
N/A

4.3	<u>Legal Implications</u>
<p>Management and governance arrangements for Charitable Trusts are set out in the constitution under which they were established. Charity Trustees must also comply with Charities Act 2011, Trustee Act 2000, other relevant legislation and guidance issued by the Charity Commission. The assets of a charity must be used in accordance with charitable law, failing which this will give rise to a breach of trust. Legal sanction can follow from either the beneficiaries of the charitable trust and/or Charity Commission. Decisions made by the charity must be expedient in the interests of the charity at all times. The Committee has empowered officers within the Council to discharge certain functions on its behalf as Council as Trustee.</p>	
4.4	<u>Public Sector Equality Duty (see separate guidance note)</u>
<p>None. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011, Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions.</p>	

## 5. Relevant background/chronology of key events:

- 5.1 The charitable trust is governed by a scheme approved by the Charity Commission on 14 October 1982 as amended by a scheme of 29 August 1984 and a scheme of 12 April 1988 and is a registered charity, number 516602.

The objectives of the charity shall be the provision and maintenance of an institute or centre for the benefit of the inhabitants of the city of Birmingham or some part of it for:

- Educational purposes.
- Purposes of recreation and other leisure time occupation with the object of improving conditions of life for the said inhabitants.
- Other charitable purposes (including religious purposes but excluding the relief of property).

- 5.2 The Friends Institute is managed by Hall Green District Committee and is currently used by arts and theatrical charitable organisations.

- 5.3 Each charitable Trust registered with the Charity Commission is required to annually submit an annual Report and Accounts, except where gross annual income is less than £25,000, no later than ten months after the end of each financial year. Below this threshold, external scrutiny is only needed if this is set out in the Charity's governing document. The accounts of such Trusts are required to have been independently examined if gross annual income is between £25,000 and £500,000, and if the income exceeds £500,000 a full audit is required. An audit will also be required if total gross assets exceed £3.26m, and the charity's gross income is more than £250,000.

- 5.3 As reported to Committee in at its meeting on the 5 November 2014, officers in Legal Services undertook a review of the Charity's constitution. As a result of this review they have determined that Birmingham City Council was in fact Custodian trustee of the Charity. The function of the Custodian trustee is simply to hold the legal title to the Trust (i.e. the asset is registered in the name of the Council and the Council holds the documents of title). The Custodian trustee have no role in the Charity's management and therefore cannot make any decisions in respect of it. The Managing Trustees were cited as members the then Leisure Services Committee of Birmingham City Council. As the Leisure Services Committee no longer exists within the Council, Sport and Leisure functions are now devolved to District Committees within the Council's current Constitution (see Volume B6 p 55).

The powers and duties of a custodian trustee are set out in Sections 4(2) & (3) of the Public Trustee Act 1906. This includes assisting the managing trustees. The managing trustees retain the management of the trust property and the exercise of any powers under the trust. The custodian trustee has a duty to concur in and perform all lawful acts necessary to enable the managing trustees to administer the charity efficiently. The custodian trustee can only assist the managing trustees – it cannot have any management responsibilities itself.

- 5.4 The Charity Commission's threshold for requiring trust fund accounts to be independently examined and forwarded to the Charity Commission is £25,000.

The trusts gross annual income for the year was £77,304 and therefore the accounts have been independently examined by the trusts appointed auditors.

- 5.5 The Charity's assets are the Friends Institute building which is valued at £0.242m.

**6.Reasons for Decision(s):**

6.1 This Report is for information only.

**Signatures****Date**

Director of Finance: .....

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Chairman .....

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**List of Appendices accompanying this Report (if any):**

1. 2014/15 Accounts