

Executive Shareholder and Trustee Committee Report

Ward(s) affected: All

Report of Joint Strategic Director of Transformation and Governance

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Arundel House (Hamilton Fellowes)

Executive Summary

A charitable trust of the land known as Arundel House was created on 18 June 1919 by deed of conveyance and declaration of trust (the Vesting Deed) executed by Frank Knight and Margery Hamilton Fellowes. GBC was named as the trustee in the Vesting Deed and GBC is the registered owner of the freehold, which should be as charitable trustee.

The unincorporated charity was registered with the Charity Commission as Arundel House (Hamilton Fellowes) charity number 200497 on 22 November 1961. However, GBC is not recorded as a trustee of the charity at the Charity Commission and the charity have now requested that Guildford Borough Council are appointed as a trustee to regularise the position.

Recommendation to Committee

That the Committee:

1. Agree to the appoint of Guildford Borough Council as a trustee of Arundel House (Hamilton Fellowes)
2. Delegate authority to the Joint Strategic Director of Transformation to arrange for an Officer to attend the Trustee meetings and take day to day decisions about the operation of the Charity and any applications made to the Charity.

Reason(s) for Recommendation:

To fulfil the Council's governance duties in respect of land it is holding on trust.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

The purpose of this report is to seek approval to Guildford Borough Council being appointed as a trustee of Arundel House (Hamilton Fellowes)

2. Strategic Priorities

- 2.1 Guildford Borough Council is the registered owner of property on behalf of the charity.

3. Background

- 3.1 A trust is a legal relationship created when assets are placed under the control of one or more trustees for the benefit of a beneficiary, or for a specified purpose. A charitable trust is created when the purposes for which the trustees must hold the trust property are recognised as exclusively charitable in law.
- 3.2 The trust was created by the Vesting Deed which sets out the charitable purpose for which the land should be used as being for the welfare and benefit of the children of the borough the but does not provide any further details as to how the terms of the trust but does not set out how the trust is to be administrated.
- 3.3 A charitable trust is a type of unincorporated charity and does not therefore have its own legal personality. This means that the charity cannot hold property or enter into contracts as a separate entity and instead the trustees have to do this on behalf of the charity. Where property is held, or liabilities entered into by individuals as trustees of a charitable trust, it is necessary to transfer legal title to the property and liabilities every time there is a change of trustee. The land belonging to Arundel House (Hamilton Fellowes) is registered as being held by Guildford Borough Council on trust for the charity.
- 3.4 To regularise the position it is appropriate for Guildford Borough Council to accept the appointment as a trustee.

4. Consultations

- 4.1 No consultations have been undertaken in relation to this report.

5. Key Risks

- 5.1 It is important that appropriate governance arrangements are in place for the charity.

6. Financial Implications

- 6.1 Guildford Borough Council already provides resources as it holds the property and therefore it is not anticipated that this will have any financial implications.

7. Legal Implications

- 7.1 The Council, acting through the Executive Shareholder and Trustee Committee, has the power to act as trustee and accepting this appointment will regularise the position in respect of ownership of the land.

8. Human Resource Implications

- 8.1 No Human Resource implications apply to this report.

9. Equality and Diversity Implications

- 9.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report

10. Climate Change/Sustainability Implications

- 10.1 No Climate Change and Sustainability Implications apply to this report

11. Executive Advisory Board comments

- 11.1 Not applicable

12. Suggested issues for overview and scrutiny

- 12.1 Not applicable

13. Summary of Options

- 13.1 The Committee may
- a. Accept the request for Guildford Borough Council to be appointed as a Trustee of Arundel House (Hamilton Fellowes) which will regularise the current situation.
 - b. Refuse the appointment and further consideration will need to be given to transfer of the land to a trustee of the charity.

14. Conclusion

- 14.1 The Committee is asked:

1. Agree to Guildford Borough Council becoming a Trustee of Arundel House (Hamilton Fellowes)
2. Delegate authority to the Joint Strategic Director of Transformation to arrange for an Officer to attend the Trustee meetings and take day to day decisions about the operation of the Charity and any applications made to the Charity.

15. Background Papers

None

16. Appendices

None