

# Agenda

## Special Council

Date:	Monday, 9 March 2020 19:00.
Venue:	Town Hall, St Annes, FY8 1LW
	<p>Mayor: Councillor Angela Jacques Deputy Mayor: Councillor Richard Redcliffe</p> <p>Leader: Councillor Sue Fazackerley <small>MBE</small> Deputy Leader: Councillor Karen Buckley</p> <p>Councillors Ben Aitken, Frank Andrews, Peter Anthony, Tim Armit, Mark Bamforth, Brenda Blackshaw, Paula Brearley, Julie Brickles, Alan Clayton, Delma Collins, Peter Collins, Chris Dixon, Trevor Fiddler, Ellie Gaunt, Brian Gill, Shirley Green, Noreen Griffiths, Peter Hardy, Will Harris, Gavin Harrison, Paul Hayhurst, Karen Henshaw JP, Paul Hodgson, John Kirkham, Matthew Lee, Cheryl Little, Roger Lloyd, Michelle Morris, Kiran Mulholland, Ed Nash, Sally Nash-Walker, Jayne Nixon, Linda Nulty, Liz Oades, David O'Rourke, Bobby Rigby, Michael Sayward, Vince Settle, Elaine Silverwood, John Singleton JP, Roger Small, Heather Speak, Ray Thomas, Tommy Threlfall, Stan Trudgill, Viv Willder, Michael Withers.</p>

**Please note** that as this meeting coincides with Blackpool Council's budget meeting, the webcasting team, who are a shared resource, do not have the resource to provide the usual standard of webcast. As a result the webcast of this meeting may differ in look and feel to our usual offer.

	<b>PROCEDURAL ITEMS:</b>	<b>PAGE</b>
<b>1</b>	<b>Declarations of Interest:</b> Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	<b>1</b>
	<b>ANNOUNCEMENTS:</b>	
<b>2</b>	<b>Mayor's Announcements</b>	<b>1</b>
<b>3</b>	<b>Chief Executive's Communications</b>	<b>1</b>
	<b>DECISION ITEMS:</b>	
<b>4</b>	<b>Lytham Institute</b>	<b>3 - 7</b>
<b>5</b>	<b>Lytham Institute Trust</b>	<b>8 - 17</b>

Contact: Katharine McDonnell - Telephone: (01253) 658423 – Email: [democracy@fylde.gov.uk](mailto:democracy@fylde.gov.uk)

The code of conduct for members can be found in the council's constitution at  
<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

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## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	SPECIAL COUNCIL	9 MARCH 2020	4
<b>LYTHAM INSTITUTE</b>			

### PUBLIC ITEM

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

### SUMMARY

The report outlines the background to the Institute being registered as a Trust and provides details of the next steps required by the Charity Commission for the Council, as the sole Trustee at present, to establish a revised objects (purpose) for the Trust, and to recommend to the Charity Commission elements to be included in the administrative parts of the Scheme.

This report was brought before the Finance & Democracy Committee, which has the remit of managing land and property not specifically held for the purposes of another committee, or which is surplus to operational requirement. As the substantive interest in this property now falls within this definition the report is made to this committee to act as the Trustee to progress the proposal, consultation and approval of the required schemes. At the Finance and Democracy meeting, held on 17 February 2020, it was resolved for this item to be referred to the Special Council meeting, to be held 9 March 2020.

### RECOMMENDATIONS

1. That Council<sup>1</sup> approve the proposed objects (purpose) for the Lytham Institute Trust for consultation in accordance with the Charity Commission guidelines
2. That Council approve the request to the Charity Commission for an administrative Scheme
3. That Council approve consultation on 1 and 2 above with the stakeholders listed in paragraph 15 of the report

### SUMMARY OF PREVIOUS DECISIONS

#### [Finance & Democracy Committee 22 July 2019:](#)

1. Register the Lytham Institute as a charitable trust, and then seek immediate advice and discussion with the Charity Commission on the governance and future management of the trust.
2. Open discussions with community groups and interested stakeholders to determine the most effective use of the Institute to fulfil the required objectives of the Trust.

#### [Finance and Democracy Committee 17 February 2020](#)

It was therefore RESOLVED for the item to be referred to Council on the 9<sup>th</sup> March 2020.

<sup>1</sup> The recommendations in the original report to Finance & Democracy committee on 17 February 2020 made reference to “the committee” For the purpose of this report to Council this has been replaced with “Council”

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	
Working with all partners ( <b>Vibrant Economy</b> )	√
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	√
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	

## REPORT

### BACKGROUND

1. The committee considered a report about Lytham Institute on 22 July 2019. That report summarised the history of the building, including its uncertain present position following the anticipated relinquishment by Lancashire County Council of its user rights following its decision to cease the operation of a library service from the Institute. The report also discussed advice from counsel about the possibility that the Institute was held by Fylde Council under charitable trusts.
2. After considering the report and counsel's advice, the committee decided to register the Institute as a charitable trust, seek advice and discussion with the Charity Commission and open discussions with community groups and interested stakeholders. See the panel above for the full text of the decision.
3. This report updates members on the present position and seeks some further direction on which to engage with the Commission.

### CURRENT POSITION

4. The application to register the Institute was made on 8 August 2019. The process was completed in December 2019. The Institute is now registered as charity no. 1186995, with Fylde Borough Council as its sole trustee<sup>2</sup>.
5. The governing document of the charity is the 1917 lease assignment which gave rise to its charitable status. The charitable objects are those set out in the assignment and are: *"to maintain the said premises and the buildings now or hereafter erected thereon for public use under the provisions of the Public Libraries Acts 1892-1901 and the Museums and Gymnasiums Act 1891 or any acts re-enacting or amending the said acts or any of them"*. The purposes of the Public Libraries Acts were the provision of *"public libraries, public museums, schools for science, art galleries and schools for art"*. The purposes of the Museums and Gymnasiums Act 1891 were the provision of *"museums for the reception of local antiquities or other objects of interest"* and gymnasiums. Both acts were repealed many years ago.

### CHANGING TRUST GOVERNANCE

6. The administrative procedures of a charity (e.g. how trustees are added or removed, how trustee meetings are run, what changes the trustees can make to the governance of the charity) are normally included in the governing document. The 1917 lease assignment does not include any governance arrangements, this is a requirement for a Trust in 2020.
7. The objects of a charity can only be changed by the Charity Commission, whilst other aspects of a governing document can be changed by the trustees if the governing document allows it. If the governing

<sup>2</sup> The Trustee is the council as a corporate body, not individual members or officers. Charity Commission guidance states that: *Where a local authority is a trustee of a charity, it is the corporate body, acting in accordance with its usual procedures, which is 'the trustee'. While ongoing management may be delegated to officers, responsibility for decision-making and oversight rests with the councillors (within the normal procedures of the Authority).* The 'usual procedures' for decision-making at Fylde are the committee system of governance, the Finance & Democracy committee has responsibility for assets that are surplus to the needs of the council, as such it is appropriate that the committee, acting under the authority delegated to it by the council, discharges the council's functions as act as 'the trustee' for Lytham Institute.

document does not allow it, other aspects can only be changed by the Commission. The Commission makes changes by making a scheme<sup>3</sup>, which replaces or amends the existing governing document.

8. Though the Commission can act of its own initiative, it will normally only make a scheme if requested by the Trustee (the Council). The committee therefore needs to decide whether to ask the Commission to make a scheme for the Institute, and (if so) what it wants to be in the request.
9. The Commission expects trustees to consult stakeholders and the public on proposed changes to be included in a scheme. The committee will therefore need to consult on its draft proposals, and consider the results of the consultation, before finalising its request for a scheme.

#### TRUST OBJECTIVES

10. The present charitable objectives of the trust need to be changed because they refer to acts of parliament that have been repealed many years ago, and because in part they relate to the running of a library, which is not one of the functions of Fylde Council, and which service is now provided by the library authority (Lancashire County Council) elsewhere in Lytham.
11. The Charity Commission has indicated that when deciding on changes to charitable objects they will have regard to:
  - a. The spirit of the original gift
  - b. The desirability of securing that the new charitable purposes are close to the original purposes
  - c. The need for the charity to have purposes which are suitable and effective in the light of current social and economic circumstances
12. The Charity Commission publishes example charity objects that it will normally base new objects around, where possible. The proposed objects / purpose for Lytham Institute, that will be subject to consultation with stakeholders, has been drafted based on the Charity Commission example for community centres and 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 learning, recreation and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.***

***In furtherance of these objects but not otherwise, the trustees shall have power to maintain or manage or co-operate with any statutory authority in the maintenance and management of the Lytham Institute building or other appropriate premises for activities promoted by the charity in furtherance of the above objects.”***

#### TRUST ADMINISTRATION

13. The Charity Commission will determine the administrative provisions in a scheme based on best practice within the Commission however the committee is asked to approve for consultation the following: that the administrative parts of the scheme should include the ability for the council to appoint additional trustees; and if it does, the scheme should provide the normal administrative provisions for trust meetings, appointment and removal of trustees, as well as a provision as to how the council is to be represented at trust meetings if further trustees were appointed.

#### CONSULTATION

14. In view of the interest in the charity and the use of the Institute, the Commission has stressed the need to conduct a suitable consultation exercise before proceeding with the scheme application. The consultation exercise should seek the views of those who would be affected by or might have an interest in the

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<sup>3</sup> There are technically two kinds of scheme. A cy-pres scheme changes charitable objects and an administrative scheme changes other aspects of a governing document. The Commission can make both kinds of scheme together where necessary. That is what we anticipate will happen regarding Lytham Institute.

changes proposed. The council will be expected to provide details of what consultation has been carried out and a summary of any responses received. It will also need to explain how this has helped inform its decision-making. Consultation will be carried out in accordance with the guidance produced by the Charity Commission.

15. Consultation is proposed to be undertaken with the following groups, with consultation to end by 30 March 2020:

- a. Current occupants of the Institute (direct engagement)
- b. Current customers using the Hewitt Lecture Room (direct engagement)
- c. Interested local community groups and organisations (direct engagement)
- d. The general public (online representations)

16. Members are asked to approve the proposed objects and recommendations for the administration of the trust for consultation, with the results of the consultation reported back to the committee for consideration prior to submission to the Charity Commission.

IMPLICATIONS	
Finance	None arising from the report
Legal	Section 88 of the Local Government Act 1972
Community Safety	None arising from this report
Human Rights and Equalities	None arising from this report
Sustainability and Environmental Impact	None arising from this report
Health & Safety and Risk Management	None arising from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Allan Oldfield	Allan.oldfield@fylde.gov.uk	23 January 2020

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Letter from the Charity Commission	16 December 2019	Town Hall, Lytham St Annes
Charity Commission operational guidance	Last accessed 23 January 2020	<a href="http://ogs.charitycommission.gov.uk/g500a001.aspx">http://ogs.charitycommission.gov.uk/g500a001.aspx</a>

## Appendix 1: Cy-pres & Administrative Scheme Proposals for Consultation

The proposed objects / purpose for Lytham Institute: The Cy-Pres Scheme

***“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 learning, recreation and leisure time occupation, including cultural and art exhibitions, with the objective of improving the conditions of life for the residents.***

***In furtherance of these objects but not otherwise, the trustees shall have power to maintain or manage or co-operate with any statutory authority in the maintenance and management of the Lytham Institute building or other appropriate premises for activities promoted by the charity in furtherance of the above objects.”***

### **Proposed request for the Administrative Scheme:**

*That the administrative parts of the scheme should include the ability for the council to appoint additional trustees; and if it does, the scheme should provide the normal administrative provisions for trust meetings, appointment and removal of trustees, as well as a provision as to how the council is to be represented at trust meetings if further trustees were appointed.*

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	SPECIAL COUNCIL	9 MARCH 2020	5
<b>LYTHAM INSTITUTE TRUST</b>			

### PUBLIC ITEM

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

### SUMMARY

Over a period of two days, commencing Wednesday 12 February, Councillors Bamforth, Blackshaw, Brickles, Gill, Griffiths, Henshaw, Lee, Lloyd, Oades and Silverwood submitted requests to the Mayor, Councillor Angela Jacques, that a special meeting of Council be called. The request for a special meeting was made in accordance with Procedure Rule 4.4(a)iv and 4.4(b).

That is;

#### 4.4 Special Meetings

(a) Special meetings can be called in five ways:

- (i) by the Mayor at any time;
- (ii) by a resolution of the Council;
- (iii) by the Chief Executive after consultation with the Leader of the Council;
- (iv) by any five members of the Council if they have followed the procedure in 4.4(b);
- (v) by the Council's Monitoring Officer.

(b) If five or more members want to call a special meeting, they must give a written request for a special meeting to the Mayor. If the Mayor refuses to call a meeting or fails to call a meeting within seven days of the written request, the five members may call a special meeting themselves.

The Mayor agreed to call a special meeting, to be held on 9 March 2020, and gave notice of the same on Friday 14 February thereby meeting to requirement to make arrangements to call a meeting within seven working days of the written requests being received.

Set out below is information on the matters the Councillors calling the meeting wish the Council to debate. Additional information provided by Councillor Lloyd is attached at appendix 1 & 2.

### RECOMMENDATION

For Council to consider the matters set out in the report.



## **SUMMARY OF PREVIOUS DECISIONS**

### [Finance and Democracy Committee – 22 July 2019](#)

The Committee AGREED to

1. Register the Lytham Institute as a charitable trust, and then seek immediate advice and discussion with the Charity Commission on the governance and future management of the trust.
2. Open discussions with community groups and interested stakeholders to determine the most effective use of the Institute to fulfil the required objectives of the Trust

### [Finance and Democracy Committee 17 February 2020](#)

It was therefore RESOLVED for the item to be referred to Council on the 9th March 2020.

## **MATTERS REQUESTED FOR CONSIDERATION**

### **MATTER 1**

***"To determine what steps the Council will take to gather the evidence it needs to inform its decision-taking regarding the Lytham Institute."***

Councillors have been asked to take decisions without being provided with proper and sufficient information on which to base them.

For example, we have seen no evidence to support, nor have we debated, the claim made to Finance and Democracy Committee that the substantive interest in this property now falls within the definition of being surplus to the Council's operational requirements.

Nor have we been presented with any documentary evidence to support the claim that the Institute is not held for the purposes of meeting the cultural, recreational and social needs of people in Lytham and the surrounding area.

We have not received a professional officer report and evidence regarding the architectural and heritage importance of this Grade II listed building, nor have we received details of what may be required and achievable by way of repair, maintenance or improvement.

We have received no report from the Tourism and Leisure Committee concerning the value or otherwise of the Institute in respect of the Leisure, Community Development, Arts, Culture and Heritage facilities that are currently provided in and from the Institute. This is a fundamental omission when that Committee's Terms of Reference include:

*"3 Considering reports, reviewing, and formulating where necessary, policies relating to leisure management and community development"*

*"5. Considering reports, reviewing, and formulating where necessary policies relating to arts, culture and heritage"*

*"10. To deal with issues arising in relation to the Trust set up to manage Lowther Pavilion and Gardens"*

*"13. To consider any management issues arising in relation to land or property within the remit of the committee"*

*"14. To keep the Council's sports development programme under review"*

We have received no report regarding the currently unmet social, cultural, recreational and community development needs of people in Lytham and surrounding areas that the trust is established to cater for.

Nor has there been any data provided on the use of the building over time, nor whether any of those uses are declining or growing.

In practice, it appears to have been the case that parts of the Council have assumed the Institute was only a library, and once that was relocated; the building was no longer needed. The other uses for which it was established, and which remain set out in the trust instrument (currently the 1917 conveyance), appear to have been disregarded, as have the services within those categories that are currently being provided by existing users and hirers.

So before any further decisions are taken, there is a need to produce the evidence that Councillors need to properly inform their decisions on such matters.

### **PROPOSITIONS**

1. That the Planning Committee report to a future Council meeting on the importance of the architectural and heritage value of the Institute Building and its current importance and relationship to Lytham Town Centre.
2. That the Tourism and Leisure Committee be asked to gather evidence detailing the existing services and facilities provided within the Institute, including their extent, and their community value and importance.
3. That the Tourism and Leisure Committee commission a survey of unmet social, recreational and cultural need in Lytham and surrounding areas.
4. That the Tourism and Leisure Committee invite the views and observations of relevant local and national bodies about need and availability that is, and could be, provided in the Institute, with the selection of those relevant bodies being guided by the expressed public desires in the 'Possible Future Uses Report' produced by the Friends of Lytham Institute.

### **MATTER 2**

***“What steps the Council will take to identify the circumstances that make it necessary to alter the present purposes of the Institute”***

Members will be aware that altering the original purposes of a trust is a complex and important matter. Ultimately, as the sole Trustee, it requires exercise of the Council's judgement to fashion proposals on which it will consult.

In order for the Council's judgement to be well informed, those taking the decision need to be fully apprised of the need for alteration, and of the options and alternatives that may be available.

### **PROPOSITIONS**

1. That officers report to a future meeting of the Tourism and Leisure Committee setting out:
  - a. The original (and current) requirements of the trust instrument;
  - b. Details of the reasons that change is now required, and whether such changes are mandatory or discretionary;
  - c. Any criteria and constraints governing the changes that might be made;
  - d. What officers consider to be the closest possible modern equivalents to the original trust instrument;

In order that the Council may be satisfied it is necessary to alter the present purposes of the trust

### **MATTER 3**

***“What steps the Council will take to consider whether or not it meets the relevant criteria for making a scheme”***

#### a) Changed Purposes / Objectives

If the Council determines that a change needs to be made to the trust's purpose/objectives, Council will need to consider the range of options available to it in respect of changed purposes / objectives that lie within the criteria set by the Charity Commission.

To make properly informed decisions about future purposes/objectives for the trust, the Council needs to be apprised of the options available, together with a commentary for each option, setting out the extent to which it accords with the Charity Commission criteria.

Furthermore, to secure the support of the trust's beneficiaries, it is important to ensure they are invited to input into the decision-taking process in this matter at an early stage.

## b) Changed Governance

The position of a Council as a charity's sole Trustee is not always ideal, not least because - as the Charity Commission sets out in its guidance- *"local authorities often fail to appreciate that they are not free to deal with the property of a charity in the same way as they can deal with their corporate property held for statutory purposes."*

The Commission also say *"When making a Scheme for some other purpose in relation to a charity which is administered by a local authority as trustee, we will consider whether other trusteeship arrangements might not be more appropriate. For example, we may suggest to the local authority that it retires in favour of a body of individual trustees, while perhaps retaining the right to appoint some of those trustees."*

This Council needs to secure arrangements that can deliver its influence, whilst at the same time engaging and encouraging users and beneficiaries of the Trust to be proactive in its governance and support.

One option amongst the possible alternatives to meet this need and deliver a broad spectrum of governance perspectives would be to consider representation by (say) thirds, where one third of trustees would be nominated by the Council, one third nominated by users of the Institute, and one third nominated by beneficiaries of the Trust.

In order to reach a decision on what form of governance it should seek for the future, Council needs to be advised of the range of possible governance options that exist, and the potential advantages and disadvantages of each.

### **PROPOSITIONS**

1. That in respect of changed Purposes / Objects for the Institute, the Tourism and Leisure Committee receive a report setting out the range of options that exist as being close alternative purposes / objects, together with a commentary on each option, setting out the extent to which each meets the Charity Commission's requirements to:
  - a. accord with 'The spirit of the gift';
  - b. deliver new purposes that are close to the original; and
  - c. to be suitable and effective in light of current social and economic circumstances.
2. That the Tourism and Leisure Committee publish a consultation report on these options, together with its preliminary view on this matter, and invites comment from existing Institute users, interested local community groups, and the beneficiaries of the charity, prior to considering the representations it has received - and amending its preliminary view as needed - in order to make a recommendation of its final view to Council
3. That in respect of future Governance arrangements, the Council receive a report setting out the range of alternative governance options the trust could request, together with a commentary on the advantages and disadvantages of each option, in order to come to a preliminary view for consultation purposes.

### **MATTER 4**

***"What steps the Council will take to consult local people to identify the similar purpose(s) that the charity and property will have in the future."***

The Council has accepted its responsibility to comply with Charity Commission Guidance to consult at various stages in the process of refreshing the purpose and governance arrangements of the trust.

It has also noted the Commission has stressed that, because of the local interest in the charity and use of the Institute, there needs to be a suitable consultation before proceeding with the scheme application.

That consultation needs to seek the views of those who would be affected by, or might have an interest in, the changes proposed. In this regard, the proposals set out in section 3 of this agenda would achieve a preferred position to recommend to Council.

Council will separately need to come to a preliminary view on its preferred changes to the trust's governance arrangements.

Council should then publish and consult upon its preferred purposes and governance arrangements with:

- Existing Institute users;
- Interested local community groups;
- The beneficiaries of the charity,

The form of this consultation should depend on, and be tailored to, the scale of change being sought and the likely weight of local opinion on what is proposed.

It needs to be thorough, because the Council will be required to provide the Charity Commission with details of what consultations it has undertaken; a summary of the responses it has received; and explain how it has used those responses to inform its final request for change to the Commission.

Those being asked to comment need an understanding of what has gone before and what is now being proposed.

If accompanied by such explanations, written consultations may be a cost effective way of securing views, but they do not allow for questioning, discussion, and feedback to be given before responses are prepared or submitted.

To meet the Commission's stated requirements, and to improve the quality of consultation responses submitted, the better, although admittedly more costly option, would be 'briefing group' style meetings with open question response documentation provided for completion and return.

**PROPOSITION**

1. Having arrived at its preferred view on the trust's future purpose and governance, the Council will debate and determine an appropriate form of consultation that will meet the Charity Commission's requirements, and secure the widest support from local users, community groups, and beneficiaries.

IMPLICATIONS	
Finance	None arising directly from this report.
Legal	None arising directly from this report.
Community Safety	None arising directly from this report.
Human Rights and Equalities	None arising directly from this report.
Sustainability and Environmental Impact	None arising directly from this report.
Health & Safety and Risk Management	None arising directly from this report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	<a href="mailto:tracy.manning@fylde.gov.uk">tracy.manning@fylde.gov.uk</a> Tel 01253 658521	13/2/2020

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection

**Attached Documents**

- Appendix 1 – Email communication dated 18 Dec 2019
- Appendix 2 - Letter dated 16 Dec 2019 from Charity Commission

**From:** Ian Curtis <[ian.curtis@fylde.gov.uk](mailto:ian.curtis@fylde.gov.uk)>

**Sent:** 18 December 2019 06:43:00

**Cc:** Cllr Susan Fazackerley <[cllrsfazackerley@fylde.gov.uk](mailto:cllrsfazackerley@fylde.gov.uk)>; Cllr Roger Small <[cllr.rsmall@fylde.gov.uk](mailto:cllr.rsmall@fylde.gov.uk)>; Cllr Karen Buckley <[cllrk Buckley@fylde.gov.uk](mailto:cllrk Buckley@fylde.gov.uk)>; Cllr Cheryl Little <[cllrclittle@fylde.gov.uk](mailto:cllrclittle@fylde.gov.uk)>; Cllr Ben Aitken <[cllrbaitken@fylde.gov.uk](mailto:cllrbaitken@fylde.gov.uk)>; Cllr Trevor Fiddler <[cllrtfiddler@fylde.gov.uk](mailto:cllrtfiddler@fylde.gov.uk)>; Cllr Roger Lloyd <[cldr.rlloyd@fylde.gov.uk](mailto:cldr.rlloyd@fylde.gov.uk)>; Cllr Mark Bamforth <[cllrmbamforth@fylde.gov.uk](mailto:cllrmbamforth@fylde.gov.uk)>; Cllr Ray Thomas <[cldr.rthomas@fylde.gov.uk](mailto:cldr.rthomas@fylde.gov.uk)>; Cllr Peter Anthony <[cldr.panthony@fylde.gov.uk](mailto:cldr.panthony@fylde.gov.uk)>; Allan Oldfield <[allan.oldfield@fylde.gov.uk](mailto:allan.oldfield@fylde.gov.uk)>; Paul Walker <[paul.walker@fylde.gov.uk](mailto:paul.walker@fylde.gov.uk)>; Paul O'Donoghue <[paul.odonoghue@fylde.gov.uk](mailto:paul.odonoghue@fylde.gov.uk)>; Tracy Manning <[tracy.manning@fylde.gov.uk](mailto:tracy.manning@fylde.gov.uk)>; Darren Bell <[darren.bell@fylde.gov.uk](mailto:darren.bell@fylde.gov.uk)>

**Subject:** Lytham Institute

Dear Councillor

Please see below the text of an email received from the Charity Commission, which confirms that the Lytham Institute has been registered as a charity. I also enclose a letter received from the Commission, which discusses the procedures needed for the Commission to consider making a scheme in respect of the charity. Officers will be meeting this week to consider the next steps.

The text of the email is:

Dear Trustee

You have applied to register the above organisation as a charity.

We are satisfied that THE LYTHAM INSTITUTE is a charity and it has been entered onto the Register of Charities with the Registered Charity Number 1186995.

### **Our decision**

The decision to register was based on our assessment of the information supplied during the application process and the declarations given in the trustee declaration form and we are satisfied that THE LYTHAM INSTITUTE is established for charitable purposes only for the public benefit.

The trustee declaration gives a reminder that it is an offence under section 60 of the Charities Act 2011 to provide false or misleading information.

**What to do now** Please ensure all of the trustees read this email.

The charity's details will be publicly available on our website within 48 hours.

It is essential that the trustees check that all the details on the [Register of Charities](#) are accurate and that they are kept up-to-date by requesting a [password](#) to access our online services. With a password they can also obtain a [Registration Certificate](#).

It is the trustees' duty to operate their charity for the public benefit.

In applying to register THE LYTHAM INSTITUTE as a charity we have referred you to our guidance in [What makes a charity \(CC4\)](#). Our guidance explains and links to the Public Benefit Framework and our guidance in Public Benefit: [running a charity \(PB2\)](#) and Public Benefit: [reporting \(PB3\)](#).

**Operating a charity and reporting: sources of support and guidance**We recommend the trustees read our [guidance on the trustee role and board](#).

Registration is just the first stage of a potentially long journey for many charities. Our [website](#) has a huge amount of specialist advice and guidance to help a charity run as effectively as possible and assist in the most common areas that affect charities.

Use the [Managing your charity](#) section of our website to notify us of any changes and comply with legal obligations; whether it is filing accounts or completing the Annual Return, changing the governing document or alerting us to a serious incident.

Yours faithfully

Rebecca Ramsey

Yours Sincerely



**CHARITY COMMISSION**  
FOR ENGLAND AND WALES

Mr Ian Curtis  
By email only to:  
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Charity Commission  
PO Box 211  
Bootle  
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**T: 0300 065 1802**

**Your ref:**  
**Our ref: NJ/514700/C-511323**

**Date: 16 December 2019**

Dear Mr Curtis

**THE LYTHAM INSTITUTE (5146700)**

We understand that you have been in contact with the Commission's Registration team as you have applied to register the above organisation. Rebecca Ramsey explained that a member of the Commission's Charity Services team would be in contact about a scheme to change the charity's purposes. That is the reason for this letter.

The charity's governing document is an Indenture (or Assignment) dated 29 September 1917. The charity's purposes are to maintain and use the Institute premises for the "provisions of the Public Libraries Act 1892 – 1901 and Museum and Gymnasiums Act 1891 ...".

**Overview**

In altering the purpose of a charity by scheme, the steps to be followed are set out in the Charities Act 2011. In summary, it is necessary to:

- firstly, identify the circumstances that make it necessary to alter the present purpose(s) and ensure they meet the criteria for making a scheme; and
- secondly, consider the similar purpose(s) that the charity should now have – that is, the use to which the charity's property might now be put.

When this has been done, it is necessary to:

- consult with stakeholders and consider the results (if this has not already been done) and make any necessary modification to the proposals;
- pass a resolution at a meeting of the trustees to formally apply for the scheme;
- consider the draft that we then prepare (if we agree to make a scheme); and
- arrange to publish a notice of our intention to make the scheme (if we think this is necessary).

**On track to meet your deadline?**

Visit [www.gov.uk/charity-commission](http://www.gov.uk/charity-commission) for help on filing your annual return and accounts

**t:** 0300 066 9197 (General enquiries)

**w:** [www.gov.uk/charity-commission](http://www.gov.uk/charity-commission)

In making their decisions, the trustees should ensure they follow our [decision-making guidance](#).

### **1. Demonstrating the criteria for making a scheme have been met**

In order to provide a scheme, we must be satisfied that the criteria for making a scheme to alter the purposes of the charity have been met. These criteria are known as 'cy pres occasions' and are set out in s.62 of the Charities Act 2011.

Section 4.2 of the following guidance explains the circumstances in which we can make a scheme to change a charity's objects. Please explain which situation (or situations) applies here and why.

[Changing your charity's governing document](#)

### **2. Deciding the new purposes/objects**

If the criteria for making a scheme have been met, we can make a scheme to provide new purposes of a similar nature. When deciding on the new purposes, we have to consider:

- The spirit of the original gift;
- The desirability of providing new purposes that are close to the original; and
- The necessity for the new purposes to be suitable and effective in light of current social and economic circumstances.

Please set out what the trustee thinks the new purposes should be and explain how they relate to the three considerations above.

### **3. Consultation**

As section B4.2 of the following guidance explains, we expect trustees to have carried out appropriate consultation to help inform their decision-making regarding whether any of the criteria for making a scheme have been met and, if so, what new purposes are appropriate. The consultation would need to be appropriate to the situation.

[Guidance on Scheme consultation](#)

We understand that there is some interest in the charity and the use of its property. The trustee will need to conduct a suitable consultation exercise before proceeding with the scheme application. You will then need to provide details of what consultation has been carried out and a summary of any responses received. You will also need to explain how this has helped inform the trustee's decision-making, both regarding whether the criteria for making a scheme has been met, and what the proposed new purposes should be.



#### 4. Formal application for a scheme

The trustee must make a formal decision to apply for a scheme at a properly constituted meeting of the charity. This decision must be recorded in the charity's records (eg minute book). When this has been done, please email us the following confirmation:

"I declare that:

- The charity has formally made a decision to apply for a scheme.
- The meeting was held on [insert date].
- The meeting was quorate.

#### 5. Drafting the scheme and public notice

If we are satisfied that the criteria for making a scheme have been met and the other necessary information has been provided, we will consider drafting a scheme.

Before authorising the scheme, it is likely that we will require public notice of the scheme.

However, to enable us to confirm this, please answer the following questions:

- Is the trustee aware of any opposition to the proposals/draft scheme?
- Does the trustee believe the scheme will be controversial?
- Have any objections been raised to the proposals? (if yes, please provide details and explain how the trustees have taken account of these objections).

It is important that we are made aware of the likely reaction to the scheme or any potential objections. In the event that we discover that the scheme was opposed (and therefore should have been publicised) it might have to be cancelled.

#### 6. Additional information

You did provide my colleague Robert Turton with copies of the Counsel's opinion received by the Council as trustee. Please can you resend these.

Yours sincerely,  
Nia Jones

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