

CHARLES AND BARBARA TYRE TRUST – APPOINTMENT OF GOVERNORS

1. EXECUTIVE SUMMARY

- 1.1 This report advises that the Charles and Barbara Tyre Trust have written to the Council seeking agreement for the appointment of two Governors to the Board of the Charles and Barbara Tyre Trust.
- 1.2 The Council has previously taken the decision to investigate the legality of having to make appointments to the Trust and the report presents an update in this regard.

1.3 RECOMMENDATIONS

The Council is invited to consider whether it wishes to appoint the two Governors to the Board of the Charles and Barbara Tyre Trust as detailed at paragraph 4.3 of this report or alternatively if it wishes to exercise the option to make no such appointment as provided for at paragraph 4.5.

The Council is further invited to consider its position in relation to future appointment of Governors of the Trust.

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2. INTRODUCTION

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3. RECOMMENDATIONS

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4. BACKGROUND

4.1 The Charles and Barbara Tyre Trust is an educational trust arising from the will of the late Charles Tyre and is operated in terms of a Statutory Scheme made in 1979 under the relevant Education (Scotland) Act. The Statutory Scheme provides for a governing body of 10 Governors and the Council's role in relation to the Trust is to appoint Governors. The Governors need not be Members of the Council.

4.2 The periods of office of Governor run for three years from the date of their appointment. The Scheme also provides that a Governor may be re-appointed but can only serve for a maximum of two successive terms and thereafter must vacate office for a period of one year before becoming eligible for further re-appointment.

4.3 Following the Governors meeting of the Trust held on 24 August 2017 the Governors have written to the Council seeking agreement for the appointment of Rev Steve Fulcher, Southend, Campbeltown and Rev Chris Fulcher, Glencruitten Road, Oban to act as Governors on the Board of the Trust.

4.4 The Trust is registered with the Office of Scottish Charity Regulator (OSCR), which is the independent Regulator and registrar for Scotland's charities, including community groups, religious charities, schools, universities etc and consequently is required to comply with relevant laws i.e. the Equality Act. The Council has previously requested clarification of its legal position into the appointment of Governors and it is clear that this is the Council's only role in relation to the Trust.

4.5 Within the Constitution of the Trust there is a provision which states “If the body entitled to appoint a governor fails to do so within the 3 month period, it shall be in the power of the governing body to appoint a successor and any appointment under this subparagraph shall be deemed to be an appointment by the body entitled to make the appointment.”

5.0 CONCLUSION

Given this provision the Council may wish to give consideration to its future role in the appointment of governors given that it currently has only a limited and indirect relationship with the Trust. In order to rewrite the terms of the Trust this would incur a significant legal cost to a small charity which has a strong track record in benefiting young people pursue educational development. The existing provision within the Trust allows for a situation where the Council may not make an appointment without incurring a rewriting of the governing constitution.

6.0 IMPLICATIONS

6.1 Policy – None

6.2 Financial - none

6.3 Legal - The Council has an obligation to appoint Governors to the Trust.

6.4 HR - none

6.5 Equalities - None

6.6 Risk – None

6.7 Customer - None

Douglas Hendry - Executive Director of Customer Services

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Councillor Rory Colville – Policy Lead for Corporate Services

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