

CHARLES AND BARBARA TYRE TRUST – APPOINTMENT OF GOVERNORS

1.0 EXECUTIVE SUMMARY

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.

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.

Recommendation

The Council decision in November 2017 was that the Council agreed to make no appointment to the Trust and the recommendation is that no further appointments will be made if they are requested by the Trust.

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2.0 INTRODUCTION

- 2.1 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.

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.

3.0 RECOMMENDATIONS

- 3.1 That the Council should make no appointments to the Trust and further recommends that no further appointments will be made if they are requested by the Trust.

4.0 DETAIL

- 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. Following a request from the Trust, in August 2017, asking the Council to appoint Governors, the Council, at its meeting on Thursday 30 November 2017, agreed to make no appointments to the Trust
- 4.3 Following the Governors meeting of the Trust held on 22 August 2019 the Governors have written to the Council seeking agreement for the appointment of Mrs L Tighe, St Clair Way, Ardrishaig and Ms

Janna Leckie, Pier Road, Tarbert 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

- 5.1 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's role in relation to the Trust is to appoint Governors.
6.4 HR - none
6.5 Fairer Scotland Duty - none
6.5.1 Equalities – protected characteristics - none
6.5.2 Socio-economic Duty - none
6.5.3 Islands - none
6.6 Risk - none
6.7 Customer Service - none

**Executive Director with responsibility for Legal and Regulatory Support
Policy Lead Rory Colville**

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