

**Executive**

26 July 2002

Report of the Assistant Director (Lifelong Learning and Leisure)

## **ESTABLISHMENT OF THE MUSEUMS TRUST**

### **Purpose of Report**

- 1 This report updates members on the establishment of the York Museums and Gallery Trust and asks them to:
  - Approve the key principles of the founding legal agreements:
    - ⇒ The Transfer agreement
    - ⇒ The Funding Agreement between the Council and the Trust
    - ⇒ The “Partnership Delivery Plan” setting out how the Council and the Trust will work together to deliver a museum service of excellence
    - ⇒ Leases to be used for the various museum premises
    - ⇒ The Collections Loan Agreement
  - Agree the level of funding of the Trust
  - Agree to ask the Charity Commission to draw up new charitable schemes for the Yorkshire Museum and Gardens and the Kirk Collection
  - Approve 1 August as the date on which to transfer the operation of the Council’s museum services to the Trust

### **Background**

- 2 In June 2001 members agreed in principle to the transfer of the Museums Service to a charitable trust. The background to this decision was:
  - The increasing decline in visitor numbers – an average of 37,000 visits per year lost over the last ten years.
  - The increasing gap between income and expenditure with the service costing an extra £120k every year – this is not sustainable.
  - A large backlog of inadequately catalogued objects and poor storage conditions

- Buildings requiring extensive maintenance and upgrading including full access for people with disabilities
- A need to modernise the display methods at all sites
- A need to improve the effectiveness of the management of the service

3 Attempts in recent years to address these problems within existing structures have failed. The Trust option was identified as having best potential to achieve a turnaround through:

- A structure involving trading companies with greater freedom to operate entrepreneurially within the highly competitive visitor markets
- Longer term funding arrangements providing a more stable basis for business planning and development
- More opportunities to increase income from commercial activities
- The potential for more active fund-raising with the ability to attract more grants and sponsorship from the private sector
- Likelihood of an HLF award to address the buildings issues
- Greater scope for external borrowing
- Tax benefits leading to savings capable of being reinvested in the service
- Greater potential for productive partnerships within the city.

4 The principles of transfer previously agreed by members were:

- The Trust will comprise the Art Gallery, Castle Museum, St Mary's Church, and the Yorkshire Museum and Gardens. It will be formed as a company limited by guarantee with charitable status. It will also include a trading company which covenants all profits back to the parent charity.
- The Trust will be governed by a board of trustees with a chair and ten to twelve members whose skills reflect the significance and range of the collections. This will include two Councillors, a nominee of the Yorkshire Philosophical Society (YPS), and an individual nominated by the unions in consultation with the staff.
- The Council will retain ownership of the collections. In the case of those assets that are subject to existing trust deeds it will be the custodian trustee. It will loan the collections to the Trust through a formal agreement.

- The Trust will continue to provide the residents of York with free entry to the main collections.
  - The Council will at the outset make a ten year financial commitment to the Trust with a rolling 5 year forward plan.
  - Funding will be based on present levels with inflation and a triennial 'dowry' will be provided to meet at least 80%, and no more than 90%, of the funding gap between the Trust's predicted expenditure and the existing cost of the Service.
  - The Council will provide partnership funding for an HLF application (£1.9m is included in the current Capital Programme).
  - Agreements between the Council and the Trust will ensure that the Council's expectations and outcomes are met.
  - TUPE will apply to the transfer of staff.
- 5 An "Initiation Group" was established to take forward the necessary work. This group, comprising Robin Guthrie (Chair), Mike Allen, David Rayner, and supported by Councillors Jones and Bradley, together with an officer group including financial, legal and human resource specialists, was tasked with the following:
- Consulting with all stake-holders.
  - Establishing the legal entity of the Trust, appointing Trustees, and obtaining charitable status for the company.
  - Commissioning the necessary legal documentation to transfer the operation of the museums service to the trust.
  - Confirming financial costs and preparing a funding agreement.
  - Recruiting the Chief Executive for the Trust.
  - Making all necessary arrangements in conjunction with Council officers for the Trust to be ready to operate the Council's museums services from 1 August, for example setting up accounting, financial and other support services.
  - Consulting with UNISON and staff on transfer arrangements, and developing the Trust's HR policies.

### **Progress**

- 6 The Company has been formed and application made for charitable status. The Charity Commission sees no difficulty in this regard, but a new Scheme is required to carry the 1960 agreement with respect to the Yorkshire Museum and Gardens into the new situation and to deal properly with the rights of the YPS. Charitable status will be made

effective retrospectively from 1 April 2002. Draft schemes have been drawn up to vary the existing trust deeds in relation to the Yorkshire Museum and Gardens and the Kirk Collection. It is intended that the former be put to the Charity Commission jointly with the YPS. (Draft Heads of Terms in respect of the Yorkshire Museum and Gardens are at Annex 6).

- 7 An interim arrangement will be needed since the new schemes will not be in place by 1 August. The Charity Commission will agree to a "temporary delegation" of day-to-day management of the two charities to the company pending the settlement of the schemes as long as this does not delegate any duty, discretion or responsibility of the Council as trustee. It will also need to provide for regular reporting back to the Council by the company. The Charity Commission have suggested that there be a cap on individual items of expenditure and on the total expenditure after which the company is automatically required to seek further authority for expenditure from the Council. The formal leases will not come into force until the new schemes are in place.
- 8 A maximum of 15 and a minimum of 11 trustees are envisaged in the Memorandum and Articles of the new Trust. A widespread search for trustees has been mounted over the past 6 months, including public advertisement in local and national newspapers, personal contact, and recommendations from staff and members. An interview was held with Robin Guthrie in November under the chairmanship of Barbara Woroncow, Chief Executive of the Yorkshire and Humberside Museums Council, as a result of which Mr Guthrie was invited to be Chair Designate of the new Trust. This decision is expected to be confirmed by the Trustees at their first meeting on 4 July. There were no other candidates.
- 9 The Board of Trustees will at the outset consist of: 2 Councillors, Robin Guthrie, Mike Allen and David Rayner (previously of the Initiation Group), 1 YPS nominee, 1 trades union nominee, Peter Addymann (YAT), John Cherry (British Museum), Ron Cooke (York University), Denise Jagger (Company Secretary, ASDA), David Pocknell (Director, Pocknell Design Studio), Terry Suthers (Director, Harewood House Trust), Dianne Willcocks (York St John).
- 10 Meanwhile, two key appointments have been made. Janet Barnes has been appointed Chief Executive and Michael Woodward Finance Director. Janet Barnes was formerly Director of the Crafts Council and worked before in the Museums and Galleries service of Sheffield City Council and subsequently in the Trust that now runs that service.

Michael Woodward joined the Trust on 8 April from the Museum of Science and Industry in Manchester where he was Finance Manager.

- 11 TUPE regulations lay down a duty for both the transferor and transferee employers to inform and consult with affected employees and their appropriate representatives. This is being achieved through a consultation strategy incorporating fortnightly meetings of the Museum's Consultation Group, team briefing sessions, regular news sheets and a 'hot box' and telephone help line system.
- 12 This strategy has been effective so far and will continue to meet the communication needs up to the transfer date. It is intended that the strategy is then modified to ensure a well informed workforce within the Trust and agreed consultation mechanisms with the recognised trades unions.
- 13 There are many practical tasks to be completed before the Trust will be ready to go operational from 1 August 2002. Council officers are currently providing guidance and help to the Trust to:
  - Adopt a robust set of financial regulations and ensure that the key aspects of the Council's regulations are adopted, especially those aimed at good financial control and value for money.
  - Set up its own budgets and budget monitoring. It is assumed that the Trust will continue to use the Council's financial ledger for its first year of operation. Key staff will need to be trained and Trust finances will need to be isolated on the ledger.
  - Set up its own bank account and creditor payment routines.
  - Negotiate service level agreements and payment arrangements with those Council's support services which the Trust will continue to buy into.
- 14 Officers are working on a comprehensive action plan of tasks which need to be completed before 1 August and will co-ordinate this with the Trust's Chief Executive and Finance Director.

### **Basis of Transfer**

- 15 The following are the key components that need to be agreed in order to effect a transfer of the Council's museums service to the Trust. The legal documentation has been drafted by Lawrence Graham, experts in the field of trust law:
  - **The Memorandum of Association:** This document describes the Trust, its reasons for existing and its charitable objects. It is based

on a standard model and is intentionally broad in order to give the Trust all necessary powers to be able to function as an independent organisation. (See Annex 2)

- **The Articles of Association:** This prescribes how the trust will operate as an organisation. With regard to the future appointment of trustees it sets out that in every notice for an annual general meeting, the Board shall set out its requirements for the skills, qualities and experience which it needs from its members. The notice shall state the extent to which those requirements are met by those Trustees continuing in office and those retiring and intending to re-offer themselves for election.

In exercising their powers to nominate, appoint, reappoint, elect, re-elect, approve and dismiss Trustees, both the members and trustees shall seek to ensure that the Board of Trustees is representative of the local community and users of the services and facilities offered by the Company and also comprises persons with a broad range of skills and who are likely to contribute to the Company's success. (The Articles of Association are available to members on request). The specific way that the Trust will carry out its business is also covered in the Partnership Delivery Plan at paras. 10 – 19.

- **The Funding Agreement:** This sets out how the Council will fund the Trust. The 'Partnership Delivery Plan' section sets out what the Trust and the Council agree will be delivered, the targets it will reach and the reporting arrangements that are proposed. (Attached as Annex 1).
- **The Transfer Agreement:** This document formally transfers to the Trust the activity of providing museum and gallery services together with the staff and the assets. The schedules list staff and their present terms and conditions (part of the TUPE requirements), any contracts with third parties, and equipment). With respect to operation of the museums shops a subsidiary transfer agreement will transfer stock and equipment only (i.e. not staff) to the trading company.
- **The Leases:** A generic lease has been prepared to be used for the 5 key sites: the Art Gallery, the Castle Museum, St Mary's Church, the Yorkshire Museum and Gardens and associated buildings, and Birch Park Store. A 25 year lease is proposed which will fit with the capital funding arrangements of major potential funders such as the Heritage Lottery Fund. The rent will be a peppercorn.
- **The Collections Loan Agreement:** Ownership of the collections will not change – the Council will remain owner / custodian trustee.

The agreement provides for a loan period of 25 years and sets out the Trust's obligations. A collections management protocol (attached at Annex 4) which will form a schedule of the Funding Agreement sets out how the collections will be managed and ensures that the Trust will operate the collection according to the standards required for a registered museum adopting the Council's current collection policy. This will preclude the Trust or the Council from inappropriately disposing of items, e.g. by selling them.

The Trust will take on the administration of 3 trust funds which were established by donors for specific purposes. (The Edward Lamb legacy for the maintenance of the James Cox Automaton Clock, the William Read Trust Fund for the purchase of British fossils and books for the Yorkshire Museum, and the Ismay legacy, for the maintenance and development of the Ismay Collection).

The Trust will also administer the various Donation Funds which will be transferred to the Trust. (The Castle Museum fund is the only substantial one, having a balance at 31 March of £163,642. Final balance will be agreed on transfer). They will be required to administer these in line with the current terms.

- 16 These documents form the foundations of the arrangement. As such, they are relatively fixed and would not be expected to change significantly (although the attached schedules, notably the Partnership Delivery Plan will be regularly updated). They aim to strike the necessary balance between on the one hand ensuring that the Council as the Trust's main funder sees results in line with the agreed outcomes and can be satisfied as to the proper use of public funds, and on the other that a genuinely independent organisation is established capable of achieving business turnaround and of pursuing its charitable objectives.
- 17 In addition, an annual process of negotiation on funding is proposed which will include updating of objectives and targets. The Trust will also develop and maintain its own business plan which will describe the totality of its activities and will submit this to the Council.

### **Issues:**

#### **The Funding Agreement**

- 18 The Funding Agreement reflects the agreed objective of giving the Trust a 5-year planning horizon. The Agreement will guarantee a base level of funding, which is equal to the current Council budget for the Museums Service (with some adjustment for those budgets which the Council will need to retain, for example Asset Rentals).

- 19 This base level of funding will increase each year in line with the Council's agreed allowance for inflation and pay rises assumed in the annual budget. This arrangement has the benefit of ensuring that, in real terms, base Council funding will not increase over the current budget level. It will also ensure that the Trust has enough funding to meet the requirements of nationally agreed pay rises for its employees. The rate which will be used for 2002/3 is 2.7%.
- 20 The agreement on core funding will run from 1 August 2002 to 31 March 2008. The Trust will submit an application to the Council for the further five years of core funding in April 2005. This will be supported by a Business Plan for the next five years and Members will have the opportunity to comment on and approve further core funding and to approve a revised Partnership Delivery Plan.
- 21 The Trust will receive its base funding each quarter in advance, paid from the Council into the Trust bank account. This will have some cash flow implications for the Council, as currently expenditure on the Museums service is withdrawn from Council Funds over 12 monthly periods (mainly to pay staff salaries and wages). The need to withdraw in four quarterly instalments will reduce the amount available for investment in the Council's bank account. It is estimated that this will cost the Council approximately £15k per year. However, the Trust will benefit from being able to invest their surplus cash, which should yield an equivalent amount, to be reflected in the base level of funding agreed with them. And the Trust will be able to invest the Castle Museum donations fund.
- 22 The base budget will not meet the needs of the Trust to invest in attracting visitors, care and maintenance of the collection and taking a more commercial approach to earning income. As such, there will need to be an amount of top up funding (referred to as the "dowry") agreed in the Funding Agreement. As the Trust is looking to invest to yield returns over the medium term, it is vital that there is some future guarantee as to how much the dowry will amount to. For this reason, the Funding Agreement asks for an initial three year dowry to be agreed (from 1 August 2002 to 31 March 2005). If the Trust needs to apply for a further dowry beyond 2005, the case will be made to the Council in June 2004. This will allow time for discussion and negotiation with the Council, coming to an agreement by February 2005. The initial dowry shall be no less than 80% and no more than 90% of the additional running costs projected for the Trust compared to the base level of funding which is to be transferred.



- 23 Agreeing the level of the dowry up to 31 March 2005 is key to the Funding Agreement and is dependent upon the Council agreeing the assumptions made in the Trust's Business Plan. The Initiation Group has presented its Business Plan for the first three years of operation and has put forward proposals as to the level of dowry needed. This is discussed in detail in paragraphs 29 to 35.
- 24 The Council will monitor performance of the Trust regularly via a set of agreed performance indicators (see below) and the Trust will provide the information to enable Council officers to evaluate performance in line with the funding. The Trust will produce its own statutory accounts, as required by the Charities Commission. These will be available for inspection by the Council and the taxpayers. The Council has the right to suspend, reduce or withdraw funding from the Trust during the year if there is any wilful breach of the terms of the Funding Agreement or improper use of the funding. It is proposed that the Trust adopts a robust set of financial regulations in agreement with the Council.
- 25 The Funding Agreement will need to reflect the fact that, for the first year of operation, there will only be part year funding by the Council (from 1 August). It is proposed that Accountants set up the Trust budget agreed in the Funding agreement as if for a full financial year. All costs and income will be coded to this budget by Council staff up to 31 July. The Council will then need to close down the Trust Account at that date, reflecting all outstanding expenditure and income commitments. Once agreed, the remaining level of funding will be transferred to the Trust for the remainder of the 2002/3 financial year. If there are significant over or underspends during the period 1 April to 31 July 2002, there will need to be separate negotiations with the Trust before the transfer.
- 26 Whilst the funding agreement provides for the possibility of varying funding during the year it is based on the objective of the Trust doing everything it can to manage within the agreed funding framework and becoming increasingly less dependent on the Council's funding over time. Whilst the initial dowry is calculated on the basis of meeting a percentage of the identified funding gap there will no expectation that the Council will automatically increase its funding if the Trust's shortfall increases – in the first instance it will be for the Trust to find ways of reducing its expenditure.

### **The Partnership Delivery Plan**

- 27 This is a key document setting out the Council's expectation for outcomes over the next five years, the monitoring mechanisms and the performance indicators to be provided. It is attached as Annex 1.

- 28 The main features of the Partnership Delivery Plan are that it:
- Describes a partnership arrangement in which the Trust provides museum services delivering outcomes within the Council's key corporate objective areas. It sets out the obligations of both parties in making this partnership work
  - Covers a 5 year time-frame and will be renewed at the end of that period
  - Sets out the key targets for the trust in delivering Best Value
  - Sets out Performance Indicators
  - Sets out monitoring arrangements
  - Sets out management arrangements for Museum Gardens
  - Provides for the Trust continuing to represent the Council at city level in delivering museum services and continuing to advise members on museums issues

### **The Trust's Proposed Business Plan**

- 29 The key assumptions made in the Initiation Group's business plan in order to meet the Partnership Delivery Plan are as follows:
- stabilising visitor numbers at the 2001 level, with ticket income rising at 2.5% from 2003 onward
  - increasing income from retail and catering profits (retail income rising at £50k per year and catering income at 5% per year)
  - increasing income from temporary and touring exhibitions (by £100k over a five year period)
  - increasing school visits to the Museums, by appointing a new schools liaison assistant, to redesign and market the service to schools
  - achieving income from new sources, particularly from Premises and Garden lettings (to £50k pa by 2006/7)
  - much needed investment in conservation and cataloguing of the collection, by appointing a new Collections Manager and 1.5 fte conservators, making full use of the conservation facilities in the Museums Service
  - preparing the Heritage Lottery Fund bid, to obtain an investment of £8m in the infrastructure of the Museums.
  - investing in key management resources of the Chief Executive, Commercial Director and Director of Finance

- investing in key areas of marketing and exhibitions, to ensure that the downward trend in visitor numbers is reversed and income generated from temporary and touring exhibitions (to £300k in total by 2006/7)

30 These are ambitious objectives for the Trust and the key is to ensure that investment is used wisely in order to gain the full benefits and transformation which are the Trust's and Council's objectives. A summary of the Trust's three year business plan is shown at Annex 3. The assumptions made in the plan have been checked by Council officers to ensure that they reflect current achievable spending plans in the Museums budget at present. The comments of the Head of Financial Services on the business plan are attached at Annex 5. The Trust will be funded by the Council as follows:

- a base budget (equal to the current Museums Service budget) will be transferred to the Trust. For 2002/3, this will total £1.279m and thereafter will increase annually by inflation as set out in the funding agreement;
- Members have also set aside an initial three year dowry of £345k and have made available a further £255k to the Trust to fund set up costs.

#### **Set Up Costs:**

31 The provisional out-turn for 2001/2 shows that the initiation group have spent £110k of the set up costs budget. This has funded expert legal, financial and pensions advice. The Trust plans to use a further £50k of this budget in funding one-off expenditure in 2002/3, particularly to fund further legal fees and financial software. This will leave £95k of the budget remaining, which the Trust intend to set aside to meet any future pensions, early retirement or redundancy costs which may be incurred over the coming years. This is similar to the contingency set aside by the Council for such eventualities.

#### **Dowry:**

32 The Council will undertake to make available top up funding for the Trust in the form of a "dowry" to cover the first three years of operation and payable in advance on 1 August 2002. Based on the business plan produced by the Initiation Group and plans for utilising the remaining set up costs funding, the dowry for the first three years is calculated as follows (further details are provided at Annex 3):

	<b>02/03 £000</b>	<b>03/04 £000</b>	<b>04/05 £000</b>
<b>Trust Expenditure</b>	3,412	3,665	3,751
<b>Trust Income</b>	1,980	2,147	2,280
<b>Net Expenditure</b>	1,432	1,518	1,470
<b>Council Funding (base budget transfer uplifted by inflation each year)</b>	1,279	1,323	1,357
<b>Funding Gap</b>	153	195	113
<b>90% of funding gap</b>	138	175	102
<b>Dowry at 90%</b>	415		

- 33 The dowry of £415k should be viewed in the context of the projected financial position if the Council were not to transfer the services to the Trust and were not to invest. If the projected annual decline in visitor numbers were to materialise at a rate of 2.5% p.a., it is estimated that this would cost the Council approximately £470k over a 5 year period.
- 34 The ultimate aim of the Trust is to be in a position where no further dowry is needed from the Council. However, there may be a need to agree a further level of dowry for at least a 2 year period beyond 2004/05. Indications in earlier reports to Members have estimated this at £320k. If the Trust meets the targets it has set itself in the first three years, the second dowry will be much lower than this estimate. The Trust aim to complete a rigorous financial plan once up and running and with appropriate staff in place after August 2002. It is recommended that the Trust present this to the Council in October 2002.
- 35 The first three year dowry of £415k which is being put forward by the Trust amounts to £70k more than has been set aside in the budget provision of £345k. If agreed, the additional £70k would need to be funded from Council reserves. Members have already been alerted to the need to be cautious in utilising reserves, as part of the Budget process. The key reason for the need for a higher dowry than the £345k that was originally envisaged for the first three years is the faster rate at which the Trust would wish to invest in development activities aimed at reversing the declining visitor trend and exploring new opportunities for generating income, particularly expenditure on marketing. In return, however, the future dowry requirement will be reduced by at least this amount.

## **Assets to be leased to the Trust**

36 **Land and buildings** - The following are included - (plans are at Annex 7):

- **The Castle Museum** – with a boundary line drawn at the gable wall of the north western end of the Museum because of possible requirements for the Coppergate II development. The Eye of York is excluded.
- **The Art Gallery** - with the exception of the land behind the Art Gallery. It is proposed that the land behind be operated by the Trust under a short-term agreement until such time as clearer plans are developed for the site. This will keep all options open whilst the Council considers the development possibilities. The Trust may also in due course bring forward proposals for a museums development which may be able to generate income and so reduce the Trust's reliance on Council funding. Should a partnership proposal be agreed a new, longer-term agreement could then be entered into.

The Archive is also excluded (it will be leased back to the Council). However, the Trust has formally indicated that should these premises become vacant in the future they will wish to bring forward a business case for their use as they could significantly enhance the performance of the Art Gallery particularly in respect of retail, catering and education facilities.

- **The Yorkshire Museum and Gardens** – including Tempest Anderson Hall, St Mary's precinct, the Bowling Green, the Hospitium, part of the remains of St Leonard's Hospital, the Lodges (St Mary's and the Gardens), the Boat House, the Observatory and ancillary buildings as well as the railings. (The toilets are excluded not being part of the gardens as are the walls, the Multangular Tower and the riverside path – current arrangements for these will remain in place.)
- **St Mary's Church, Castlegate**
- **Birch Park Store**
- **Fulford Cross Store** - A licence up to 2004 is proposed for this building recognising that the Council may develop proposals for the surrounding land. It should, however, be noted that in the event of the licence being terminated the Trust would have no revenue with which to make alternative arrangements. It is therefore proposed that should a development scheme arise involving this property then the Council should assist the Trust with the cost of obtaining

alternative premises. This intention is reflected in the Collections Protocol within the Funding Agreement.

- **Lower Darnborough Street Store** - This is a Housing property and is currently the subject of a capital programme scheme. It is therefore proposed that it is let on a licence that can be terminated with 6 months' notice. Again, as no rent is currently payable, the Trust will have no revenue budget with which to make alternative arrangements. (No provision has been made within the Housing capital scheme for alternative premises for the Museum store.) It is therefore proposed that should a scheme proceed the Council assist the Trust in the cost of obtaining alternative premises.
- **James Street Store** - The lease here is due for renewal. It is proposed that a new lease is taken in the name of the Trust.

37 The leases will prescribe free entry for York citizens to the Museums and to the Museum Gardens together with minimum opening hours based on current levels. In the case of the Museum Gardens their continued availability free of charge for civic and ceremonial use and for Council supported events will also be prescribed. The existing rights of the self-managed bowlers will also be protected. It is not proposed to place restrictions on uses of the buildings. Sufficient controls are available through the Trust's Memorandum and Articles of Association, which place parameters around the activities of the Trust, and through the Funding Agreement and Partnership Delivery Plan. There is also a specific section in the Partnership Delivery Plan relating to the management of Museum Gardens.

38 The leases will not allow for assignment of the whole or any part of the premises. Landlord's consent will be required for sub-lettings if the sub-lease creates an interest in land for more than 12 months.

39 A key issue is that of repairing liability. The initial proposal was that the Trust take on full repairing leases. However, recent building condition surveys have confirmed that there are a number of potentially significant problems with the buildings. Any failures arising in these areas would be beyond the immediate capacity of the Trust to deal with. On transfer it will have within its funding only amounts equivalent to the small day to day repair and maintenance budgets currently available within the Museums Service. In the early days the Trust will not be able to raise the significant funding that would be required to deal with major building failures. It is therefore proposed that the lease requires the Trust to use "reasonable endeavours to keep the premises in repair".

- 40 Clauses in the Transfer Agreement will define the extent of “reasonable endeavours”: In the first instance it is proposed that the Council should retain liability for any major failures to roofs and external walls. Major failures will be defined as those where the cost of the repairs is greater than £25k and which prevent the tenant from reasonably carrying on their business at the premises. All other categories of repair and maintenance will be responsibility of the Trust. This provision will apply only to the 4 main museum buildings.
- 41 It is envisaged that this repairing liability will be reduced by buildings being put in order as part of a capital improvements programme which will be the subject of a Heritage Lottery Fund bid (members have already made £1.9m provision for partnership funding). The targets in the Partnership Delivery Plan help to ensure that the Trust aims to address the most significant problems first in order to limit the Council’s liability.
- 42 Under this provision the Council would only be required to deal with problems that interfere with the operation of the service. This is broadly similar to the current position whereby, in the event of a major buildings failure, the Council would have to decide whether to use its reserves to address the problem in order to reduce loss of income from disruption to the business. Over time it can be expected that the Trust will be able to achieve capital investment in the buildings which will reduce the liability that the Council currently faces.
- 43 The Council will continue to insure the premises and the tenants will be responsible for the premium. The various legal agreements ensure that the Trust takes out other essential insurance including, for example, maintaining the current level of cover for the collections.
- 44 There are break options in the leases allowing either party to give notice to terminate the lease (albeit these cannot be exercised in the first 5 years of the agreement).
- 45 Members are asked to approve the above principles and give officers delegated approval to conclude individual leases / licences prior to 1 August.

### **Human Resources Issues**

- 46 Under these proposals all Council Staff will transfer to the new organisation on 1 August under TUPE provisions. They will retain their existing terms and conditions on transfer. New contracts will be issued on the day of the transfer incorporating all existing HR policies, practices and agreements subject only to process changes agreed

with the Trade Unions prior to transfer. Changes will be limited to those rendered necessary to ensure effective application of policy / procedure from day one e.g. the disciplinary appeals process needs amendment to ensure that any appeal will be heard within the Trust.

- 47 On-going links with City of York Council will be retained where mutually beneficial or economically advantageous e.g. training programmes, and some service contracts.
- 48 In line with national policy the Trust will agree with the recognised trades unions (Unison and the GMB) a union recognition agreement which will include consultation and negotiation on all matters falling within section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992. The Trust and the unions have also agreed to enter into a 'fair employment' agreement. This will draw upon a proposal put forward by Unison and in essence is concerned to ensure that there will be not be a two-tier workforce. Although these agreements will formally be concluded once the Trust is employing the staff interim arrangements have been agreed for example with regard to facilities time. Work is also well advanced on agreeing the Trust's personnel policies with the trades unions.
- 49 The unions in consultation with the staff have put forward a nominee for the Trust board as set out in the Trust's Articles of Association.

## **Pensions**

- 50 The Trust has been granted admitted body status to the North Yorkshire Pension Fund (NYPF). Currently, of the 117 staff who will transfer from CYC to the Trust, 77 are already members of the pension scheme. Their pensions will not be affected by the transfer. Those staff who have opted not to join the NYPF will be reminded of the benefits of joining the scheme before the transfer takes place. However, the key assumption being made in the admitted body agreement with the NYPF is that all Trust staff, both existing and future employees will have the option of joining the NYPF. It will also assist with recruitment and retention, as most of the new appointments will come from a public sector background and will wish to transfer their pensions into the North Yorkshire scheme.
- 51 There are various tasks which need to be completed to ensure that full admitted body status is achieved for the Trust. The most significant step is obtaining the actuarial valuation which determines the employer's contribution rate which the Trust will need to pay, to ensure that all staff have the option of joining the scheme. This information has now been received from the actuaries who are proposing a contribution



rate from the Trust as employer of 11.9%. The Council's contribution is currently 15.3% for 2002/3. It has been assumed that the current full budget for employer's superannuation is to be transferred to the Trust, which is consistent with the principles of the core funding agreement (i.e. transfer of the full current budget for the Museums Service). It does mean that the Trust will save on employer's contributions with having the lower rate. This could amount to £40k per year.

- 52 One of the key requirements of admitting the Trust to the North Yorkshire Pensions Scheme is that CYC provide a written form of guarantee. This is usual practice and was used to assist the transfer of museums in Sheffield. The aim of the guarantee is to indemnify the North Yorkshire Pensions Fund against all losses, claims, expenses or payments that may be incurred as a result of any failure by the Trust to meet its obligations under the Admission Agreement to the Pensions Fund. The draft guarantee has been sent to the CYC Legal team for checking, who have confirmed that the wording of the guarantee is acceptable to CYC.
- 53 The Trust will take decisions related to staff which may affect liabilities to the Pensions fund. In order to limit any potential liabilities, the Trust will be asked to adopt the Council's draft new pensions policy, aimed at taking a reasonable and responsible approach to early retirements and redundancies.

### **Support Services**

- 54 The Council will transfer to the Trust, as part of base funding, a budget of £295k to purchase support services. The Trust is seeking "Public Body" status from the Secretary of State so that the Council may continue to provide services for it.
- 55 These services are currently provided to the Museums service by Council departments (HR, Finance, IT etc). However, the Trust will not need to purchase some of these services, mainly due to providing direct resources to deal with issues such as Finance and HR.
- 56 The intentions of the Trust as regards Support Services are set out below:

<b>Service</b>	<b>Charge £</b>	<b>Potential Impact</b>
ODU (including District Audit)	44,350	The Trust will not buy this service from 1 August
Accountancy	27,351	The Trust will purchase £7k of the

		service up to 31 March 03, but will then no longer purchase this. Still undecided on £20k of the charge, but will definitely opt out from 1 April 03.
Payroll	4,547	Trust will continue with this service
Creditor Payments	2,709	Trust will continue with this service
Debt Collection	6,103	Trust as yet undecided
Cashiers	1,737	Trust will not buy this service from 1 August
IT	144,200	Trust will continue to buy in in the short term, but will be market testing and negotiating on this service area and may pull out of all or part of the service in the medium term.
Legal Services	1,956	Trust intend to appoint their own solicitors, but may buy into a part of the service.
Internal Audit	4,640	Trust will continue with this service
Marketing and Comms	42,100	The two staff covered by this charge are transferring as directly employed staff of the Trust.
York Consultancy	11,089	Trust may continue with a more limited service but will carry out their own building cleaning contract monitoring, so income to York Consultancy may reduce.
Grounds Maintenance Client Management	3,934	Trust will no longer require this service. Grounds Maintenance staff are transferring to the Trust from Commercial Services and will be managed directly.
<b>Total Charge / Income to Council</b>	<b>294,716</b>	
Definite Loss in Short Term	50,021	ODU, Grounds Maintenance Client, Cashiers
Definite Loss in Medium Term – additional:	27,351	Accountancy
Potential Loss in Medium Term – additional:	152,259	IT, Debt Collection, Legal
<b>Total Potential</b>	<b>229,63</b>	

<b>Loss</b>	<b>1</b>	
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57 In summary, in the short term (i.e. in 2002/3), there is definite loss of support services income of £50k. Over the medium term, this may rise to as much as £230k. Those services affected will either be expected to reduce their costs by the same amount as the lost income, seek other business and income or absorb the loss within their budgets. This will not be possible in all services. Where there are budget deficits on trading accounts that cannot be balanced by a reduction in expenditure, the Council will need to provide funding, either from contingency or as part of future budget rounds.

### **Commercial Services**

58 Commercial Services currently provide Building Cleaning, Grounds Maintenance and Commercial Waste collection services for the Museums Service. The Trust have indicated that, in the short term, they will continue to buy Building Cleaning and Commercial Waste collection from Commercial Services. They will look to market test both services in the longer term. The intention is that Grounds Maintenance staff will be transferring under TUPE arrangements to the Museums Trust and will be directly managed. There is, therefore, no significant impact on the profitability of Commercial Services in the short term. However, if, in the longer term, the Trust do decide to buy cleaning and waste collection services elsewhere, there may be an impact on the overheads of Commercial Services and therefore profitability.

### **York Consultancy**

59 York Consultancy will lose a small amount of income as a result of no longer charging for clienting the building cleaning contract on behalf of the Museums Service. However, this should be a minimum amount and indications are that this can be managed within budgets.

### **VAT Issues**

60 The Trust have indicated that they will probably apply for VAT exempt status for the non-trading part of their operations (i.e. Cultural Exemption). This means that they would no longer need to charge VAT on tickets and admissions. Assuming the price to visitors remains the same, the Trust would gain additional income. However, they would not be able to reclaim VAT on purchases, which produces an additional cost. As the Trust pays over more VAT than it reclaims on this part of the operation, there would be a net financial benefit. Accurate calculations have not yet been performed, but it is estimated exempt

status could result in the Trust achieving further income of between £100k and £150k per annum.

- 61 This additional income has not been assumed in the Trust business plan. This is because, if the Trust were successful in obtaining Heritage Lottery funding and embarked on a project to refurbish and modernise the current museum buildings, the VAT incurred on this expenditure would not be reclaimable from Customs and Excise. Over the medium term it is feasible that the Trust will only break even on VAT.
- 62 There is only one key impact on the Council if the Trust does decide to take exempt status. Councils are one of very few categories of organisation that can reclaim VAT on exempt services (e.g. Crematorium, Commercial Property). However, we must incur no more than 5% of our total annual expenditure on exempt services. If the Council breaches this percentage, then the total exempt VAT claimed in that financial year must be repaid and can be as much as £500k. If the Council does fund any major repairs for the Trust, which will have exempt status, care must be taken that the 5% limit is not breached. This means that there will need to be even more careful monitoring of the exempt limit by Corporate Accountancy. Members should note that the Trust's trading operation will charge full VAT on its transactions. There is still some debate as to whether the Trust will charge the Council VAT on the quarterly core funding amounts, which the Council would then reclaim from Customs and Excise. Both the Council and the Trust are taking advice on this from Customs and Excise. Council officers will be seeking reassurance that this is allowable, in the interests of protecting the Council from any future VAT penalties.

#### **“Client” Arrangements**

- 63 Responsibility for managing the arrangements with the Trust on behalf of the Council will rest with the Education and Leisure Department. As part of the restructuring of Lifelong Learning and Leisure a new post has been established of Head of Libraries and Heritage which will undertake this responsibility. This has been achieved at no additional cost.
- 64 This post will ensure that the relationship with the Trust develops as a partnership as well as overseeing all matters of performance and reporting to members. The postholder will not be a museums professional as officers of the Trust will still be expected to advise the Council on matters of national, regional and local museums policy. Where, however, the Council wishes to take independent advice it will be possible to buy this in as necessary.

## **Consultation**

- 65 A considerable amount of consultation has taken place prior to formulating these proposals for the Trust. We have asked opinions of residents through existing research activities and through special focus groups as part of the Best Value review of Leisure. The results of these exercises have influenced the way targets for the trust have been shaped, for example the importance placed on preserving our history, providing educational opportunities, and developing better exhibitions.
- 66 We have also consulted with key partners in the cultural heritage sector within the City, regionally and nationally including strategic bodies such as the regional museums council, as well as operating companies. These discussions highlighted the potential for a trust to take forward a widely owned agenda.
- 67 It is now timely for the Council and the Trust together to consult widely on the key elements of the forward plan. To facilitate this it is proposed to conduct a consultation centred around the Partnership Delivery Plan and the key proposals that it contains for future development, its targets, etc. This consultation with citizens and stakeholder groups will take place over the summer as the new Trust is launched and will be designed to facilitate a wide input of views, ideas and aspirations. The results of the consultation will be fed back to the Executive Member for Leisure & Heritage Advisory Panel and to the Trust Board and will be used to shape a final version of the Partnership Delivery Plan which will be agreed between the Council and the Trust in October.

## **Legal authority**

- 68 Public Libraries and Museums Act (1964).

## **Financial implications**

- 69 To summarise, the financial implications for the Council are as follows:
- A base funding amount to be provided to the Trust each year at a level of £1.279m (current Museums service budget).
  - This will be increased each year in line with the inflation assumptions made in the Council's budgeting process.
  - A dowry guarantee for a 3 year period. Based on the Trust's business plan, this amounts to £415k for the initial 3 year period, which is £70k above the provision of £345k already made in the Council's budget. This reflects the need to invest at a faster rate in marketing the Museums Trust services, in order to stem the decline in visitor numbers (as explained paragraph 35).

- If the dowry is agreed at more than the £345k provision, the Council will need to make this funding available from its reserves.
- There should be no financial implications for the Council associated with the establishment of the Trust as a separate body admitted to the North Yorkshire Pensions scheme i.e. the Council's employer's contribution rate will not increase as a result of the transfer. However, there is the need to provide a written guarantee which will indemnify the pensions fund against the Trust not being able to pay pensions contributions (for example, if the Trust were to fold).
- The Trust intend to continue to buy some of the Council's Support Services, but will definitely pull out of some provision, resulting in a definite loss of income of £50k in the short term and a further £27k in the medium term. There is a potential further loss over the medium term of £152k, taking the total potential lost income on support services to £230k. If support services providers cannot reduce costs or increase income elsewhere to balance trading accounts, there will be a need for the Council to fund these losses.
- There should be no financial impact on the Council from the Trust obtaining VAT exempt status, as long as the 5% limit is not exceeded. Members should note the need for careful monitoring by Corporate Accountancy to ensure the Council is not exposed.
- £1.9m is included in the current capital programme as the Council's contribution to a lottery bid.

## **Recommendations**

70 Members are asked to agree to transfer the Council's museum services to the Trust with effect from 1 August. Specifically they are asked to:

- Approve the principles of the:
  - ⇒ Transfer agreement
  - ⇒ Funding agreement
  - ⇒ Partnership Delivery Plan; and
  - ⇒ The Lease and the schedule of exceptions
- Approve the levels of funding of the Trust:
  - ⇒ the annual core funding of £1.279m, uplifted by the Council's budget inflation assumptions each year
  - ⇒ the first dowry (up to 31 March 2005) of £415k
  - ⇒ the transfer of the Castle Museum donations fund of £163k

- Delegate to officers authority to conclude:
  - ⇒ Leases / licences for each building
  - ⇒ The Funding Agreement amended to reflect the agreed start date
  - ⇒ The Transfer Agreement including its schedules of staff, contracts and equipment
  - ⇒ The Collections Loan Agreement
  - ⇒ The new charitable schemes
  - ⇒ A scheme of financial regulations for the Trust
  - ⇒ Negotiations on support services to be provided to the Trust
  - ⇒ An interim management arrangement from 1 August up to the point when all the legal agreements are concluded

## **Annexes**

1. Partnership Delivery Plan
2. Memorandum of Association
3. Summary of the Trust's draft business plan
4. Schedule to the Collections Loan Agreement
5. Comments of the Head of Financial Services
6. Draft Heads of Terms for Scheme
7. Plans of the sites

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## **Background Papers:**

1. Future options for Leisure Best Value review of the Museums Service — preliminary options, Executive, 1 June 2001
2. Museums Service Best Value: Implementation arrangements, Executive, 27 July 2001
3. Future options for Leisure Best Value review: Museums Service Continuous Service Improvement Plan, Leisure and Heritage Chief Officer in consultation with the Executive Member, 11 September 2001

Worddoc/reports/exec/trust2.doc

**PARTNERSHIP DELIVERY PLAN****Introduction**

- 1 The Partnership Delivery Plan is a joint agreement between the Council and the Trust and is an annex to the 'Funding Agreement'. It sets out:
  - the key objectives of the partnership
  - performance targets and indicators to be met by the Trust and Council
  - performance information to be provided
  - review and reporting procedures
  - partnership arrangements between the Council and the Trust
  - arrangements for the operation of the Yorkshire Museums Gardens
- 2 The Trust is an independent organisation working in partnership with the Council with the aim of delivering a Museums and Gallery service that will over the next five to ten years become recognised as one of the very best in the country.
- 3 This plan covers the first five years of the Trust. It may, however, be updated by the Council and the Trust during that period in the light of changing circumstances. The Funding Agreement provides a process whereby the Plan will formally be reviewed by the Council and the Trust towards the end of the 5 years in order to create a new plan for the next 5 years.

**Key Objectives**

- 4 The key objectives of the partnership are drawn from 2 sources. Firstly from the Council's core objectives, principally to:
  - Maintain and develop York Museums as a Service of pre-eminent importance locally, regionally, nationally and internationally through the care, display and interpretation of and access to its collections
  - Improve educational opportunity and achievement for everybody in York
    - ⇒ increase achievement of pupils at every stage of their education
    - ⇒ improve range and quality of opportunities for adults to learn



- ⇒ improve the level of life skills of York residents
- ⇒ develop the range and quality of cultural opportunities
- ⇒ create a more vital and vibrant city through innovation and creative expression
- Strengthen York's economy
  - ⇒ attract additional investment
  - ⇒ meet future skills needs and create wider employment opportunities for all York residents
  - ⇒ attract Tourists to the City
- Ensure that all residents can take part in the life of the City
  - ⇒ increase opportunities for people to be involved in decision making in their communities
  - ⇒ ensure that people in minority and vulnerable groups can take part in the life of the City
- Promote the quality of York's environment
  - ⇒ protect and enhance the building and green features that make York unique
- Ensure that the City of York Council is a well managed Council
  - ⇒ ensure continuous service improvement and high quality in the delivery of services
  - ⇒ ensure sound financial management.

And secondly from the Trust's principal objects:

- The advancement and support of scholarship, scientific enquiry, education and the arts for the benefit of the citizens of York and of the public in Yorkshire and elsewhere, especially in the fields of antiquities, social history, painting, the decorative arts and the natural sciences
- To provide opportunities for the citizens of York and visitors to the City to learn the history of the City and its region in terms of its people, culture and history together with its scientific, artistic and industrial development
- The maintenance for these purposes and the benefit of the public of the Yorkshire Museum and Gardens, the Castle Museum, the York City Gallery, St Mary's Church and any other premises together with the care, enhancement (by acquisition or other means), management and display of the collections within these institutions

and display of collections from any other body which will promote the objects of the Company

- 5 The Partnership will ensure that the service is operated in accordance with the Museums Association Code of Ethics and will take all necessary steps to maintain the Registered status of the Museums and Gallery, and the Designated status of their collections

### **Targets**

- 6 The agreed key targets for the Partnership for the next five years are:
- stabilise the service:
    - ⇒ visitor numbers to be maintained at 480,000 a year
    - ⇒ total numbers of hours open a year, for all sites, to be no less than in 2001/02: 7,689 hours
    - ⇒ secure at least an £8M development across the Service to meet the basics of making the buildings safe and secure, and able to meet the expectations of 21<sup>st</sup> century visitors and the Disability Discrimination Act, and alleviate the highest priority maintenance problems
  - deliver new income streams:
    - ⇒ setting-up a trading company which covenants all profits back to the parent charity
    - ⇒ generate additional income, from sources other than admissions, which must be used to enhance the services provided for customers and citizens
    - ⇒ prepare and implement a Marketing Plan designed to increase levels of footfall, improve visitor satisfaction levels and increase visitor income
    - ⇒ identify a complementary Retail Plan, designed to improve the financial performance of present facilities and develop new sources of income
    - ⇒ define and implement a strategy for the greater utilisation of the Museum Gardens, the Tempest Anderson Hall and the Hospitium
    - ⇒ achieve as soon as possible an uplift in income from the hire and sub-letting of premises
  - deliver new permanent exhibitions and continued development of interpretative services

- ⇒ create a Gallery Improvement Plan for each institution, identifying display and interpretation needs, and justifying the resultant costs of implementation
- ⇒ devise and implement a programme of temporary exhibitions, designed to appeal to a wide cross section of local and specialist interests, and where appropriate be financially viable as touring exhibitions
- ⇒ determine the future for St Mary's Church within the curatorial framework
- create a strategy for a comprehensive educational service meeting the needs of the schools, colleges and universities:
  - ⇒ increase visits from these sources by 300% by 2007: from 12,000 to 48,000
  - ⇒ accommodate a diversity of learning needs in the design and operation of the exhibition areas
  - ⇒ develop an education programme as an instrument of change to develop new audiences, and enhance the capabilities and enjoyment of the visitors
  - ⇒ achieve partnership funding
- increase use and involvement by local people:
  - ⇒ use by residents to increase from 50,000 to 70,000 visits a year
  - ⇒ an increased awareness, from 40% to 80%, of residents' free-access with the YorkCard
  - ⇒ 5,000 people taking advantage of events and workshops
  - ⇒ double the number of active participants, e.g. volunteers, working with the Trust on a range of projects
  - ⇒ increase the number of 'friends' or other support groups
  - ⇒ broaden audience profile so that it is significantly closer to the city's demographic profile
- achieve high visitor satisfaction
  - ⇒ so that by 2007 over 90% (from 60%) of all visitors are either satisfied or very satisfied
- ensure cataloguing of the collection, keeping artefacts safe and providing full access to knowledge:

- ⇒ pursue virtual access to the catalogued parts of the collections and all exhibited material
- ⇒ pursue a strategy aiming to clear 40% of the collections backlog by 2007
- ⇒ produce a storage strategy by 2003
- ⇒ identify conservation needs and priorities, and implement a 5-year strategy that ensures the reasonable preservation of the collections
- re-structure so that the different functions of the Museums Service are promoted to the full, including attracting the public, curating and managing the collections, enhancing the commercial potential and strengthening the internal organisation:
  - ⇒ becoming a learning organisation that is outward looking, challenges its ways of doing things, compares itself to others, competes well and actively seeks and uses customers' view and perceptions to improve services
  - ⇒ providing evidence of continual improvement
  - ⇒ involving staff in the detail of developing new organisational systems
  - ⇒ appoint a Chief Executive Officer and senior management team
  - ⇒ identify and implement a sound management structure and system of governance
  - ⇒ define and manage successfully a business plan and annual budgets, consistent with agreed Council and other funding arrangements
  - ⇒ create a buildings maintenance strategy and a programme of prioritised remedial works, agreed with the Council
  - ⇒ prepare a Human Resources strategy, using it as a framework for reviewing pay and conditions, staff training and development, and career advancement
  - ⇒ agree a "Fair Employment Agreement" with the recognised trades unions
  - ⇒ implement a system of Key Performance Indicators applicable to senior staff, linked to Trust objectives, plans and budgets, and consistent with arrangements for reporting to the Council

7 The above are joint objectives, though the balance of responsibility for their delivery will fall on the Trust's side. The Council, for its part, will take a generally supportive attitude and will, in particular :

- Take a lead in promoting awareness of the museum education service
- Take a lead in promoting awareness of the free opportunities provided by the museums for local people
- Make available, free of charge, its Procurement services so that the Trust may benefit from bulk purchasing and interest rates negotiated with third parties
- Provide basic advice through the "client officer"

### **Performance Information**

8 Information will be provided by the Trust in the following areas (as a minimum):

- total number of visits to the Trust's sites and temporary exhibitions—to be provided monthly
- the number of uses of the Trust's services by residents (actual and as a % of all users and segmented into demographic groups)
- the number of hours the collections were available to the public during the financial year at the 4 main sites
- touring exhibitions created and to whom hired
- the number of school children, in school groups, using the Trust's services: (a) actual numbers of all school users, and % as compared to all visits; (b) numbers of local school users and % of total city catchment
- number of local people taking up life-long learning opportunities offered by the Trust
- general satisfaction index from visitors (aggregate over the year and by site)
- level of external investment secured (actual and as compared to planned)
- number of meetings of resident advisory panel and young people's advisory panel (actual and compared to planned)
- number of residents who are members of the various 'friends' groups, (actual and as % of total membership)
- number of exhibitions, events and educational activities delivered (actual and as a % of planned)

- copies of management accounts – quarterly
- acquisitions and disposals from the collections – quarterly
- number of uses of the Yorkshire Museums Gardens for activities and events
- quality of the gardens in terms of comparison with the agreed specification

The Council will provide information in the following areas (as a minimum):

- % of residents aware of free-access to core collections (as measured by 'Talk About' — the Council's annual residents' survey)
- The number and nature of positive promotional mentions of the Museums in material aimed at local residents
- The number and nature of positive promotional mentions of the Museums in material aimed at local schools and colleges
- The number and nature of educational initiatives in which the Museums have been included

### **Review and monitoring**

9 The following procedure will be apply. There will be:

- Twice yearly review of performance between the partners:
  - ⇒ the Trust will provide performance information as set out above
  - ⇒ senior managers from the Trust (i.e. the Chief Executive and/or the Finance Director) and the Council (i.e., the "Client Officer" and/or the Assistant Director for Lifelong Learning and Leisure) will meet to review performance against the agreed indicators
  - ⇒ meetings will be set a year in advance and will normally be held in November and May
  - ⇒ performance will be reported to the Council's Executive Member and to the Trust Board
- annual agreement to Council funding by the Council's Executive Member as set out in the Funding Agreement
- an annual scrutiny process
- officers of the Trust will submit the Trust's Annual Report and other agreed performance information to a Council scrutiny body and attend to respond to members' questions

## **Partnership Arrangements**

- 10 The Council and the Trust will through this partnership ensure the delivery of Best Value and its principles in order to deliver continuous service improvement.
- 11 The Trust and the Council will continue to explore options for further partnerships:
  - the Council being mindful of the potential of the museums and art gallery to provide a positive contribution to its cultural, educational, economic, social and environmental agenda
  - the Trust being mindful of the experience and specialist services that the Council can offer
- 12 The Trust will represent the City on museums issues at international, national, regional and local level and continue to advise members of the Council on museums policy. The Trust will provide this service to the Council without charge provided that the work is broadly in furtherance of the objectives of this partnership. (Otherwise a fee can be negotiated).
- 13 The Trust will continue to play a role in the civic life of the city. It will provide facilities for hosting civic events (subject to operational availability) charging for them at cost. The Council will treat the Trust on same terms as an internal Council department with respect to the use of rooms at the Guildhall.
- 14 The Council and the Trust agree to the application of the 'Nolan principles' (The seven principles of public life) to their operations and the partnership working between the two organisations.
- 15 The following objectives will underpin the conduct of partnership business - to:
  - ⇒ demonstrate responsible governance of the Trust to its principal beneficiaries, the citizens of York, having regard for the extent of funding by the Council
  - ⇒ involve the community in key decisions affecting the objectives, policies and delivery of the services managed by the Trust, making the processes of decision-making as transparent as possible
  - ⇒ work to published standards of collections accessibility and customer care, and to routinely make public the resulting performance attainment
  - ⇒ encourage, and respond to, ideas and suggestions from the community in regard to the display and interpretation of the

permanent collections, the subject matter of temporary exhibitions, and the scope of outreach activities

- ⇒ respond openly and constructively to complaints, demonstrating that they have been adequately investigated
- ⇒ take such steps as are necessary to be satisfied that the Trust is, as far as is reasonably practicable, meeting the expressed aspirations of the community in regard to museum services.

16 The partnership will support the governance arrangements set out in the founding legal documents as follows:

- ⇒ governance of the Trust is overseen by the Board of Trustees, meeting regularly
- ⇒ the composition of the Board attempts to reflect knowledge and experience of the major activities and responsibilities of the Trust
- ⇒ community interests are expressly represented by two City of York Councillors being Trustees
- ⇒ when vacancies occur on the Board, the Trust will seek community candidates for consideration by advertising in local media. The Council will assist in this by advertising for example in the Council newspaper and in Ward Committee newsletters
- ⇒ the Trust publishes details of trustees appointed, their professional qualifications and experience, and a register of their business and public interests
- ⇒ below the board, the management of the Trust is vested in the Chief Executive, working within delegated authorities from the Board
- ⇒ the Chief Executive is supported by a team of senior managers, each responsible for a designated area of activity

17 The following principles will underpin the conduct of business:

- ⇒ the minutes of the meetings are available for inspection on request at each of the three museum / gallery locations, and are made available by the Council using its normal mechanisms [and available on the YMGT web site (when available)]
- ⇒ strategic plans of principal areas of activity of the Trust, once endorsed by the Board, are also placed on deposit at the Central Library
- ⇒ other Board papers, unless they are specifically deemed to be confidential, may be inspected by members of the public on request to the Chief Executive's office at St Mary's Lodge



- ⇒ Board meeting agendas will normally be available for inspection at the three museum / gallery locations and on the YMGTT web site a week in advance of each meeting
- ⇒ a report of recent business is included in the quarterly CYC newspaper
- ⇒ the Trust publishes a public Annual Report, and a mid-year performance update
- ⇒ the AGM is held in public, and details are promulgated in local media
- ⇒ an annual 'Meet the Trustees' event is held, giving the public the opportunity to question the Board on performance and future plans

18 The Trust will also aim to:

- ⇒ extend the concept of the Friends of the Art Gallery to embrace the other two museum locations
- ⇒ establish a number of advisory bodies to work with groups and individuals in specific / specialist areas of activity. Representation from appropriate local groups, etc. will be sought
- ⇒ establish a Young People's Panel, meeting two or three times a year, which seeks a young view on specific aspects of the trusts services and future plans. Representatives of the City's Youth Forum and other groups will be invited to join the panel

19 Public consultation will be carried out on any issue of major public impact. Mechanisms of effective consultation with the public appropriate to the issue in question will be discussed with the Council, who will assist the Trust in carrying out consultation.

20 In order to ensure accountability to customers:

- ⇒ the Trust will produce a 'Customer Charter' setting out standards of service and care that customers can expect
- ⇒ all customer complaints and representations are logged, specifically investigated and replied to, and the Board sees a summary of these at each Board meeting
- ⇒ the Trust is committed to achieve a recognised customer service standard, such as the Government's Chartermark, as soon as possible

### **The Yorkshire Museum Gardens**

21 The Council and the Trust acknowledge the importance to the City of the Yorkshire Museum Gardens as a unique and special facility of the people of York and its visitors. The quality and importance is

recognised by its listing in the English Heritage register of historical parks and gardens.

- the partners agree to develop jointly a management plan that covers the use of the gardens
- the management and development of the gardens needs to reflect its foundation as a botanic garden, its registration with English Heritage and its designation as a Scheduled Ancient Monument, and the strategic plan will be based on this
- the plan will be developed over the first year of operation of the Trust and needs to incorporate the views of a range of organisations and individuals, and especially those of the Yorkshire Philosophical Society
- the plan will aim to achieve the Civic Trust “Green Flag” award for the Gardens by 2005
- the plan will contain an updated maintenance specification
- within the framework of the strategic plan, the Trust will be looking to develop partnerships with others, including the Council, for the development of a sympathetic cultural events in the Gardens
- the plan will include provisions for the management of and charging for events
- it will include provision that free access to the gardens will be maintained for civic and ceremonial events and additionally that
- and it will include provision for 10 free days for activities supported by the Council as having city-wide importance (to be free of charge other than the recovery of costs)

## **The Eye of York**

21 The Eye of York is not leased to the Trust and remains under the operational control of City of York Council. In determining the nature and timing of events that will be allowed to take place on the Eye of York the Council will, however, consult with the Trust to ensure that activities are sympathetic to the Castle Museum and will not interfere with the effective operation of the Museum.

**COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE  
CAPITAL**

**THE COMPANIES ACTS 1985 AND 1989**

**MEMORANDUM OF ASSOCIATION of YORK MUSEUMS AND  
GALLERY TRUST**

1. The name of the association (hereinafter called 'the company') is YORK MUSEUMS AND GALLERY TRUST
2. The registered office of the Company will be situated in England
3. The Company's Objects ('the Objects') are:
  - (a) the advancement and support of scholarship, scientific enquiry, education and the arts for the benefit of the citizens of York and of the public in Yorkshire and elsewhere, especially in the fields of antiquities, social history, painting, the decorative arts and the natural sciences; and/or
  - (b) to provide opportunities for the citizens of York and visitors to the City to learn the history of the City and its region in terms of its people, culture and history together with its scientific, artistic and industrial development; and/or
  - (c) the maintenance for these purposes and the benefit of the public of the Yorkshire Museum and Gardens, the Castle Museum, the York City Gallery, St Mary's Church and any other premises together with the care, enhancement (by acquisition or other means), management and display of the collections within these institutions and display of collections from any other body which will promote the objects of the Company; and/or
  - (d) such other charitable purposes consistent with the main Objects and beneficial to the community as the Trustees shall in their absolute discretion determine
4. In furtherance of the said objects, but not further or otherwise, the Company shall have power:
  - (a) to lend any items, groupings, displays or collections on such terms as the Trustees shall in their absolute discretion determine provided that such loans shall not contravene any conditions attaching to such items, groupings, displays or collections;

- (b) to write, print or otherwise reproduce by any means of recorded audio and/or visual information whether now or hereafter invented and circulate, gratuitously or otherwise, periodicals, magazines, books, leaflets or other documents about any aspect of the objects of the Company;
- (c) to hold exhibitions, meetings, lectures, classes, seminars, workshops, courses or other events either alone or with others;
- (d) to promote greater understanding of any aspect of the objects of the Company through exhibitions, displays, lectures and demonstrations and through research, experimental work, scientific investigation and development into any aspect of the objects of the Company and to disseminate the useful results of any such research for the public benefit;
- (e) to co-operate and enter into arrangements with any authorities, national, local or otherwise;
- (f) to accept subscriptions, gifts, donations, devises and bequests of any real or personal property maintain and alter any of the same as are necessary for any of the objects of the Company and (subject to such consents as may be required by law) sell, lease, mortgage or otherwise dispose of any such property;
- (g) to issue appeals, hold public meetings and take such other steps as may be required for the purpose of procuring contributions to the funds of the Company in the shape of donations, subscriptions or otherwise;
- (h) to issue cheques and other financial instruments, and to operate bank and other accounts in the name of the Company;
- (i) subject to such consents as may be required by law, to borrow and raise money for the objects of the Company on such terms and conditions and on such security as may be thought fit;
- (j) to construct, maintain and alter buildings or erections;
- (k) to carry on trade in so far as either the trade is exercised in the course of the actual carrying out of a primary object of the company or such trade is temporary and ancillary to the carrying out of the said objects;
- (l) to take and accept any gift of money, property or other assets, whether subject to any special trust or not, for any one or more of the objects of the Company;
- (m) to subscribe for either absolutely or conditionally or otherwise acquire and hold shares, stocks, debentures, debenture stock or other securities or obligations of any other company;

- (n) to invest the monies of the Company not immediately required for its objects in or upon such investments, securities or property as may be thought fit;
- (o) to make any charitable donation either in cash or assets for the furtherance of the objects of the Company;
- (p) to establish or support any charitable institution and to subscribe or guarantee money for charitable purposes calculated to further the objects of the Company;
- (q) to lend money and give credit to, take security for such loans or credit from and to guarantee and become or give security for the performance of contracts or obligations by any person or company as may be necessary or expedient for the work of the Company;
- (r) to purchase indemnity insurance to cover the liability of the Board which by virtue of any rule of law would attach to them in respect of any negligence, default, breach of duty or breach of trust of which they may be guilty in relation to the Company provided that any such insurance shall not extend to any claim arising from any act or omission which the Board knew to be a breach of trust or breach of duty or which was committed by the Board in reckless disregard of whether it was a breach of duty or not and provided also that any such insurance shall not extend to the costs of an unsuccessful defence to a criminal prosecution brought against the Board in their capacity as Trustees of the Company;
- (s) to employ and pay such staff (who shall not other than as provided for in the Articles of the Company for Employee Nominated Trustee be Trustees ) to supervise, organise, carry on the work of and advise the Company;
- (t) to purchase insurance to cover the officers, staff, voluntary workers and those of its members from and against all such risks incurred in the course of the performance of their duties, as may be thought fit;
- (u) to pay reasonable annual sums or premiums for or towards the provision of pensions for staff for the time being of the Company and their dependants;
- (v) to purchase insurance to cover any buildings or other property to their full value;
- (w) to amalgamate with any companies, institutions, societies or associations which are charitable at law and have objects altogether or mainly similar to those of the Company and which

prohibit the payment of any dividend or profit to and the distribution of any of their assets amongst their members at least to the same extent as such payments or distributions are prohibited in the case of members of the Company by this Memorandum of Association;

- (x) to pay out of the funds of the Company the costs, charges and expenses of and incidental to the formation and registration of the Company;
  - (y) to establish where necessary local branches (whether autonomous or not);
  - (z) to do all such other lawful things as shall further the above objects or any of them.
5. The income and property of the Company shall be applied solely towards the promotion of its objects as set forth in this or her Memorandum of Association and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to members of the Company and no Trustee shall be appointed to any office of the Company paid by salary or fees or receive any remuneration or other benefit in money or money's worth from the Company provided that nothing herein shall prevent any payment in good faith by the Company:
- (a) of reasonable and proper remuneration to any member, officer, employee or consultant of the Company not being a Trustee for any services rendered to the Company;
  - (b) of interest on money lent by any member of the Company or of its Board at not less than 2% below the minimum lending rate of a clearing bank selected by that Board;
  - (c) of reasonable and proper rent for premises demised or let by any member of the Company or the Board;
  - (d) of fees, remuneration or other benefit in money or money's worth to a company of which a Trustee may also be a member holding not more than 1/100th part of the capital of that company;
  - (e) of out-of-pocket expenses to any Trustee;
  - (f) of any premium paid for insurance to cover the liability of the Board as provided for in Clause 4(r) of this Memorandum;
  - (g) of reasonable and proper remuneration paid to an Employee Trustee in respect of his or her appointment by the Company notwithstanding that he or she is a Trustee: PROVIDED THAT the Employee Trustee complies with the provisions set out in the Articles requiring the Employee Trustee to withdraw from any

meeting whilst his or her appointment, remuneration or other terms of employment or the appointment, remuneration or other terms of employment of any Employee or Employees which might affect the Trustee is being discussed and PROVIDED FURTHER that at no time shall the majority of the Trustees be Employee Trustees.

6. The liability of the members is limited.
7. Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up whilst being a member, or within one year after ceasing to be a member, for payment of the debts and liabilities of the Company contracted before ceasing to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one pound.
8. If upon the winding-up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the Company, but shall be given, subject to the consent of the Charity Commission and with regard to any property of the Yorkshire Museum and Gardens following consultation with the Yorkshire Philosophical Society to the custodian Trusteeship of the City Council or with regard to any property of the Yorkshire Museum and Gardens such other arrangements comparable to the scheme dated 13 December 1960 or transferred to some other charitable institution or institutions having objects similar to the objects of the Company, and which prohibit the distribution of its or their income and property to an extent at least as great as is imposed on the Company under or by virtue of Clause 5 hereof, such institution or institutions to be determined by the members of the Company at or before the time of dissolution, and in so far as effect cannot be given to such provision, then to some other charitable object.
9. (a) Subject to the following provisions of this clause, the Memorandum and Articles may be altered by a resolution passed by not less than two thirds of the members present and voting at a general meeting. The notice of the general meeting must include notice of the resolution, setting out the terms of the alteration proposed

- (b) No amendment may be made to clauses 1, 3, 5 or 8 of the Memorandum of Association without the prior consent of the Charity Commission.
- (c) No amendment may be made which would have the effect of making the Charity cease to exist at law.
- (d) The Charity should promptly send to the Charity Commission a copy of any amendment made under this clause.

We, the subscriber to this Memorandum of Association wish to be formed into a company pursuant to this Memorandum.



## Summary of Museums Trust Business Plan

	<b>02/03</b>	<b>03/04</b>	<b>04/05</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>
<b>INCOME</b>			
Ticket Income	1,234	1,320	1,373
Retail Income	423	473	523
Catering Income	34	36	37
Exhibitions Income	257	282	307
Rental Income	32	36	40
<b>TOTAL INCOME</b>	<b>1,980</b>	<b>2,146</b>	<b>2,281</b>
<b>EXPENDITURE</b>			
Salaries	1,784	1,934	1,953
Premises	432	441	445
Transport	25	26	27
Supplies	895	938	947
Marketing& Exhibitions	50	125	175
Support Services	226	190	192
Legal/Audit	0	11	12
<b>TOTAL EXPENDITURE</b>	<b>3,412</b>	<b>3,664</b>	<b>3,751</b>
<b>NET EXPENDITURE</b>	<b>1,432</b>	<b>1,518</b>	<b>1,470</b>
CYC base funding	1,279	1,323	1,357
Funding Gap	153	195	113
<b>Dowry at 90%</b>	<b>415</b>		

## **The Management of the Collections**

The following points describe the responsible management of the collections and their maintenance as a public collection to be preserved for future generations to enjoy and use:

- The Council will retain custodian trusteeship / ownership of all objects within the collections
- Any new objects will be vested into the ownership of the Council — the Trust will not collect items for its own benefit, but for the citizens of York and beyond
- The Trust will continue to act as managers of excavated archaeological material and archives currently in its care and of such similar material as may subsequently come into the ownership of the Council as a result of future archaeological excavations
- The Trust will initially operate according to the City of York Council Museum Service's Collections policy. This will be revised in agreement with the Council to reflect the Trust being an operator rather than an owner of the collections
- This policy will then be reviewed at least every five years, in accordance with good practice guidance, and the advice of the Resource, the Museums Association and the regional museums council and in agreement with the Council
- Any disposal from the collections will follow the museum profession's codes of practice and the Council's Collections policy. Should the Trust intend to dispose of any item from the collection under the Council's policy it will inform the Client Officer of its intention in advance. The Council may veto disposals if it does not consider that they fall within the terms of the agreed policy
- The Council will be informed of acquisitions through a quarterly report
- The Trust and the Council will act in accordance with best practice and will abide by the ethical codes of practice expected by the museum profession:
  - ⇒ The Museums Association's Code of Practice for Museum Governing Bodies
  - ⇒ The Museums Association's Code of Ethics

- ⇒ Guidelines on Acquisition, Disposal, Access and Trading and Commercial Activities; and
- ⇒ *Re:source's* security and conservation guidelines
- ⇒ Compliance with the national registration scheme for museums
- The Trust will be the Council's agent for all matters concerning the collections and their management
- The Trust will endeavour to meet all appropriate collections management standards within ten years and will aim to surpass them.
- The Trust will initially operate according to the City of York Council Museum Service's Collections Management policy. This will be revised in agreement with the Council to reflect the Trust being an operator rather than an owner of the collections.
- This policy will then be reviewed at least every five years, in accordance with good practice guidance, and the advice of the Resource, the Museums Association and the regional museums council and in agreement with the Council.
- The Council can request to take on loan items from the collections for a public display and such loans will be treated in exactly the same as any other loan, with the same conditions and provisions applied for the safe keeping of the objects.
- The Trust will negotiate on behalf of the Council, as the owners of the collections, with other organisations, or individuals, on the development and management of the collections, e.g. the submission of grant applications, major donations, or bequests, the loaning of material from the collections
- The Trust will take all necessary steps to maintain the Registered status of the Museums and Gallery, and the Designated status of their collections
- Both partners are committed to the long-term development, preservation and conservation of the collections including appropriate storage. The Council agrees that if it requires the Trust to vacate a Council-owned store under the terms of the appropriate licence then the Council will assist the Trust with securing suitable alternative premises and addressing any costs arising from such changes.

### COMMENTS OF THE HEAD OF FINANCIAL SERVICES

1. Members requested that officers in the Finance Department take a further look at the financial projections that the Trust have made in their draft business plan. The purpose of this is to try to give additional reassurance with regard to the proposals, given that in the past a £1m development fund was provided to the Castle Museum and this was in effect used to shore up the museums revenue position in the face of declining visitor numbers rather than for the development of the facility.
2. The draft business plan and other documents have been reviewed. Clearly Finance staff are not experts in marketing or the operation of this type of business but an attempt has been made to:
  - check the realism of the figures
  - make clear to Members any key assumptions
  - identify any gaps or outstanding issues
3. As a result of the above, the following is brought to members attention:
  - (a) a draft of the business plan (draft 4) was reviewed. This needs to be finalised and some of the outstanding issues referred to in it clarified and resolved
  - (b) The business plan has what appear to be realistic estimates of income from visitors and this is supported by the fact that income has exceeded budgeted income in 2001/2. Clearly such figures do get significantly affected by outside events (e.g. September 11<sup>th</sup>, Foot and Mouth, floods) but seem realistic in normal circumstances. The main comment to be made is that the Business Plan is clear on target / visitor numbers for citizens, school pupils etc but will need to analyse more fully the paying visitor numbers and the expected level and income from each main category of paying visitor.
  - (c) Forecasts of income from lettings, sales, catering and other available activities seem very achievable given the current poor utilisation of these potential income sources. In fact it seems possible that with the right sort of investment, a more detailed set of proposals (e.g. action plan, timescales, targets

etc) and successful implementation, even more could be achieved.

(d) Asset issues:

(i) There are well equipped conservation laboratories at James Street which are not in use. Although resources have been included in the business plan to operate these it is not entirely clear in the business plan how they will be run or whether, and if so to what extent, they could be an 'income generator'. The new Chief Executive of the Trust will develop firm proposals for this aspect over the next 6 months.

(ii) A major issue is the repair and maintenance of the existing buildings. Repairs to roofs, gutters and mechanical and electrical installations will be needed during the early years of the Trust. It will be an early priority for the Trust to work up a bid to the Heritage Lottery Fund. However, a strategy for this needs to be developed following discussion with the HLF to ensure that it will meet the HLF's funding priorities and the bid will then need to be planned in great detail. There is therefore uncertainty at this stage about the bid strategy, its staging, timing, and of course its ultimate success. In the meanwhile the Council will remain liable for any major structural building failures that would interfere with the Trust's ability to operate the service. The council has no budgets set aside for this, but on the other hand would have had to face the same pressure for repairs if the Museums and Gallery remained with the Council (indeed ownership of them still remains with the Council even under the Trust option).

(e) The draft of the Business Plan does not as yet:

(i) set out the expected level and income from each main category of paying visitor

(ii) set a profit target for visiting exhibitions

(iii) provide enough detail about how many of the objectives set out will be achieved

All of the above would be necessary in order to provide reassurance of the realism and deliverability of the plan.

4. The other main issue that is not covered is how the Trust will cope financially during the period when the major works are planned.

These will be a major cause of disruption and lost income. Although the timing, extent and effects of the refurbishments are difficult to predict, it will be necessary to have an outline agreement to govern the approach that both parties will take to this issue. The Funding Agreement will therefore stipulate that any refurbishment programme must be agreed in advance with the Council and must be designed in such a way as to minimise income loss. The Council will not necessarily underwrite any such loss.

### **Summary**

5. Despite the issues listed above it is clear that the Trust offers a financially better way of taking the Museums and Gallery forward from their current position. This is due to the following factors. The Trust has:
  - (a) business rate savings due to its not for profit status
  - (b) access to Heritage Lottery Funding
  - (c) some greater freedoms in terms of employment arrangements and investing to generate income from under-used assets

Further work should be undertaken to finalise a rigorous financial plan once the Trust is up and running and with appropriate staff in place after August 2002. It is recommended that the Trust present this to the Council as part of their financial case for any further dowry in October this year as part of the budget process (as set out in para. 32 above).

**YORK MUSEUM & GARDENS**

**DRAFT HEADS OF TERMS FOR SCHEME**

**Scheme**

Scheme for the future administration and management of the Yorkshire Museum and Gardens and property thereof (currently regulated by a scheme dated 13th December 1960 and Deed of Agreement between The Yorkshire Philosophical Society and The City of York Council dated 30th December 1960).

**Charity**

The Yorkshire Museum and Gardens.

**Object**

The object of the charity shall be to advance the education of the public resident in and visitors to the City of York by the establishment, management and maintenance of a museum and gardens.

**Custodian Trustee**

The City of York Council (the "City council") shall be the Custodian Trustee of the Charity (the "Custodian Trustee").

**Vesting**

The land and buildings specified in the schedule attached to the Scheme (and for identification purposes only as delineated and more particularly described on the plan attached hereto and edged in [red]) be vested in the body corporate of the Custodian Trustee together with the collections belonging to or held in trust by the Charity.

**Managing Trustee**

The York Galleries and Museum Trust shall be the managing trustee of the Charity (the "Managing Trustee") subject to the provisions contained in the scheme for the determination of managing trusteeship.

**Composition of Board of Trustees of Managing Trustee**

The Board of Trustees of the Managing Trustee shall at all times comprise of at least one individual nominated to the Board by the Yorkshire Philosophical Society.

## **Accounts and Annual Reports**

The Managing Trustee shall comply with its obligations under Part VI of the Charities Act 1993 with regard to:

- the keeping of accounting records for the Charity
- the preparation of annual accounts for the Charity
- the preparation of an annual report for the Charity
- where applicable, the auditing or independent examination of the statements of account of the Charity
- where applicable, the transmission of the statement of account and the annual report to the Commissioners
- the annual return

## **Labelling**

The Managing Trustee shall ensure that the property of the Charity is clearly labelled identifying that it is vested in the City of York Council as Custodian Trustee. The Managing Trustee shall comply with good practice in terms of cataloguing the [objects] of the Charity.

## **General Powers**

Within the limits prescribed by the Scheme, the Managing Trustee shall have full powers from time to time to make regulations for the management of the Charity and for the conduct of their business.

## **Management of Land**

The Managing Trustee shall let and otherwise manage all of the land belonging to the Charity not required to be retained or occupied for the purposes thereof subject to the terms of the lease between the City Council and the Managing Trustee.

The Managing Trustee shall comply with the restrictions on disposals imposed by Section 36 of the Charities Act 1993.

The Managing Trustee shall maintain the museum gardens as a permanent open space available to the public during such hours as shall be specified in the lease between the City Council and the Managing Trustee.

[Restrictions on use, alienation, alterations, repair and maintenance will be dealt with in the lease between the City Council and the Managing Trustee which shall incorporate the restrictive covenants set out in the 1960 scheme.]



## **The Display of the Collections**

The Managing Trustee shall use every endeavour to ensure that the collections of the Charity [especially the medieval and archaeological collections] "are better and more adequately displayed than at the time of the 1960 Scheme and Agreement." [The Managing Trustee shall comply with best practice with regard to the display of the collections].

Any articles in the Society's collection deposited with the Society on terms shall be held by the [Custodian Trustee] on such terms.

## **Meetings of the Society**

The [Custodian Trustee] [Managing Trustee] shall allow the Society to hold meetings of the Society (including joint meetings with other societies) and its Council in the Tempest Anderson Hall or one of the museum buildings at no cost to the Society provided that:

- (i) the number of meetings shall not exceed 24 in any calendar year;
- (ii) the [Custodian Trustee] [Managing Trustee] does not require such accommodation for its own use;
- (iii) [and provided further that the Society notifies the [Managing Trustee] of its programme of events and preferred dates for use of the facilities at least [three months] before the commencement of each calendar year].

The [Custodian Trustee] [Managing Trustee] shall allow officers of the Society to occupy at no cost to the Society accommodation within the museum or garden buildings for the purposes of carrying out their activities during normal working hours.

## **Annual Contribution by the Society**

The Society shall pay to the [Managing Trustee] an annual contribution which may be variable in amount. When fixing the amount of such contribution the Society shall have regard to the following principles:

- (i) Within the objects for which the Society exists it naturally desires to have discretion in carrying out of these objects which principally involve the benefit of the museum and collections. Hence the objects to which it is likely to address itself may in some years may be more costly than in others.
- (ii) The Society's intention is that subject to it being able to bear the cost of such projects out of the proceeds of its investment income the whole or greater part of the annual unspent income will be

handed over to the [Managing Trustee] to be expended by the [Managing Trustee] at its discretion for the benefit of the museum and gardens.

- (iii) The Society firmly expects that the investment income of the Society will gradually increase for some years to come and the Society estimates that in the first three years from the date hereof a sum of at least £1,500 per annum will be available as a contribution and thereafter.

[OR : The Social shall pay the Managing Trustee an annual contribution which shall represent the whole or greater part of the annual unspent income of the Society and shall unless otherwise agreed between the parties be a minimum of £1,000 per annum.]

### **Expenses of Management**

The Managing Trustees shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of any buildings thereon) and all other charges and outgoings payable in respect thereof and all the proper costs, charges and expenses of and incidental to the administration and management of the Charity.

### **Application of Income**

Subject to payment of the expenses aforesaid the Managing Trustees shall apply the income of the Charity in furtherance of the object of the Charity.

### **General**

General provisions relating to (inter alia):

- (i) Appropriation of benefits
- (ii) Personal interest
- (iii) Indemnity insurance
- (iv) Power of amendment
- (v) Matters requiring prior written approval of the Commission
- (vi) Questions under the Scheme